



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2017

CORAM:

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**THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

H.C.P.(MD)No.871 of 2016

Surya : Petitioner

Vs.

1. State of Tamil Nadu, rep. by
The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2.The District Magistrate and District Collector,
Kanniyakumari District at Nagercoil,
Nagercoil.

3.The Superintendent of Prison,
Central Prison, Palayamkottai,
Tirunelveli.

: Respondents

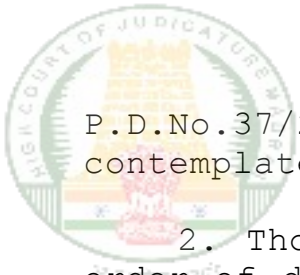
PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the entire records connected with the detention order passed in P.D.No.37/2016 dated 29.06.2016 on the file of the second respondent herein and quash the same and direct the respondents to produce the detneue or body of the detenu namely Puneshmani @ Puvaneshmani, S/o.Madhu Sundarsingh, aged about 33 years, now detained at Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.N.Pragalathan
For Respondents : Mr.C.Mayilvahana Rajendran,
Additional Public Prosecutor

ORDER

[Order of the Court was made by **R.SUBBIAH, J**]

The petitioner is the wife of the detenu - Puneshmani @ Puvaneshmani, aged about 33 years. The detenu has been detained by the second respondent by his order in Detention Order



P.D.No.37/2016 dated 29.06.2016, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

2. Though a number of grounds have been raised assailing the order of detention, at the time of making submission, the learned counsel for the petitioner submitted that the Detaining Authority, while arriving at the subjective satisfaction that there is likelihood of the detenu coming out on bail, in paragraph No.4 of the detention order has stated that the bail order dated 12.01.2016 in CrI.M.P.No.8 of 2016 was enclosed along with the typed of papers. But the same was actually not furnished. Thus, he had submitted that when the detaining authority had relied upon the document, they ought to have furnished the same. Therefore, non-furnishing of the document relied on would vitiate the order of detention.

3. In view of the above, we are of the considered opinion that the failure on the part of the detaining authority in furnishing the documents vitiates the impugned detention order and hence, the same is liable to be set aside.

4. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in P.D.No.37/2016 dated 29.06.2016, is quashed. The detenu, namely Puneshmani @ Puvaneshmani, aged about 33 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
2. The District Magistrate and District Collector,
Kanniyakumari District at Nagercoil,
Nagercoil.
3. The Superintendent of Prison,
Central Prison, Palayamkottai,
Tirunelveli.

- 4 The Joint Secretary to Government,
Public (Law & Order)
Fort. St. George, Chennai-9



5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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SMA/CM-MSA/02.02.2017:3P/6C

Order made in
H.C.P. (MD) No.871 of 2016
Dated: **05.01.2017**