



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 06.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

and

THE HONOURABLE MRS.JUSTICE NISHA BANU

H.C.P (MD) No.918 of 2016

K.Vijaya

: Petitioner

Vs.

1. The State rep by,
The Commissioner of Police,
Madurai City, Madurai.

2. The Secretary to Government,
Home, Prohibition and Excise IX Department,
Government of Tamil Nadu,
Fort.St.George, Secretariat,
Chennai - 600 009.

3. The Superintendent of Prison,
Central Prison, Madurai.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the entire records of the first respondent in Detention Order No.31/BCDFGISSSV/2016, setting aside the order of detention passed therein, dated 14.06.2016 and directing the respondents to produce the detenu, by name, Sasikumar, aged 34 years, S/o.Kalimuthu, before this Court and setting him at liberty.

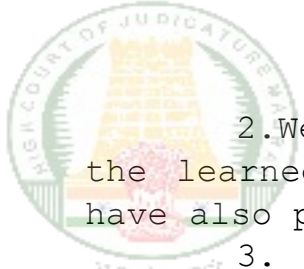
For Petitioner : Mr.AK.Azagarsami

For Respondents : Mr.C.Mayil Vahana Rajendran
Additional Public Prosecutor.

O R D E R

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

The petitioner is the mother of the detenu - Sasikumar, aged 34 years, S/o.Kalimuthu. The detenu has been detained by the second respondent, by his Detention Order No.31/BCDFGISSSV/2016, dated 14.06.2016, holding him to be a "Goonda", as contemplated under Section 2 (f) of Tamil Nadu Act 14 of 1982.



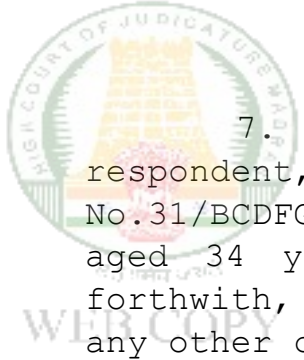
2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records produced by the Detaining Authority.

3. The Detaining Authority, while expressing subjective satisfaction that the detenu conformed to the definition of "Goonda Offender" and that his presence at large would be prejudicial to the maintenance of public order and also expressing subjective satisfaction that it was very likely that the detenu would come out on bail in the ground case, passed the impugned detention order. The said order is challenged in the present Habeas Corpus Petition.

4. The learned counser for the petitioner submitted that the Detaining Authority, for the purpose of clamping the detention order, has relied on four adverse cases and one ground case. Though very many grounds have been raised, at the time of arguments, the learned counsel focussed his argument that the Detaining Authority, in Paragraph No.5, has stated that the detenu Tr.Sasikumar, S/o.Kalimuthu, has not produced the required sureties, as directed in the conditional bail orders in the said ground case and four adverse cases and remains in judicial custody in the said cases, whereas the Sponsoring Authority, vide his Special Report, dated 11.06.2016, has stated that Tr.Sasikumar, S/o.Kalimuthu, is taking efforts to produce required sureties before the Court in the above said cases, which, according to the learned counsel for the petitioner, shows total non-application of mind on the part of the Detaining Authority.

5. We have considered the above submissions.

6. As rightly contended by the learned counsel for the petitioner and on a reading of the detention order, it could be seen that the Detaining Authority, in Paragraph No.5, has stated that the detenu - Tr.Sasikumar, S/o.Kalimuthu, has not produced the required sureties, as directed in the conditional bail orders in the said ground case and four adverse cases and remains in judicial custody in the said cases, whereas the Sponsoring Authority, vide his Special Report, dated 11.06.2016, has stated that Tr.Sasikumar, S/o.Kalimuthu, is taking efforts to produce required sureties before the Court in the above said cases, which shows total non-application of mind on the part of the Detaining Authority in machanically clamping the impugned order of detention. Hence, the plea of non-application of mind on the part of the Detaining Authority, as canvassed by the learned counsel for the petitioner, is liable to be set aside. On that score alone, the order of detention is liable to be set aside.



7. In the result, the Detention Order, passed by the first respondent, in his proceedings in Detention Order No.31/BCDFGISSSV/2016, is quashed. The detenu, namely, Sasikumar, aged 34 years, S/o.Kalimuthu, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

8. In the upshot, we allow the Habeas Corpus Petition.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Fort.St.George, Secretariat,
Chennai - 600 009.
2. The Commissioner of Police,
Madurai City, Madurai.
3. The Superintendent of Prison,
Central Prison, Madurai.
4. The Joint Secretary to Government,
Public (Law & Order) Department,
Fort Saint George,
Chennai-600009.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER MADE IN
H.C.P(MD)No.918 of 2016
Dated: 06.01.2017

NB