

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.1413 of 2018

Sharf Nisha
W/o.Hayath Basha

... Petitioner

-Vs-

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600009.

2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
(Goondas Section),
Vepery, Chennai - 600007.

3.The Inspector of Police
N.I.B. CID,
Chennai Unit,
Chennai.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to produce the detenu Hayath Basha S/o.Mohamed Bashir, aged about 44 years, branded as Goonda by the order of detention passed by second respondent in BCDFGISSSV No.74/2018 dated 09.02.2018 and confined at Central Prison, Puzhal, Chennai and set him at liberty.

For Petitioner : Mr.R.C.Paul Kanagaraj

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

[Order of the Court was made by C.T.SELVAM, J]

Petitioner is the wife of the detenu Hayath Basha S/o.Mohamed Bashir, who has been branded as a 'Drug Offender' under the Tamil Nadu Act 14 of 1982 and detained under order of

second respondent passed in BCDFGISSSV No.74/2018 dated 09.02.2018.

2. The alleged ground case has been registered against the detenu in Crime No.03/2018 on the file of N.I.B., CID, Chennai Unit, for offences u/s.8(c) r/w 20(b)(ii)(C), 25, 27(A) and 29 (1) of NDPS Act. Aggrieved by the order of detention, the present writ petition has been filed.

3. We have heard learned counsel for petitioner and learned Additional Public Prosecutor for respondents. Perused the materials on record.

4. The detaining authority noticed that the detenu is in remand in the ground case and has not moved any bail application has informed that the relatives of detenu were taking steps to move bail application and hence, there is real possibility of his coming out on bail by filing bail application and if he comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of public order. Though the detaining authority has informed of an effort by the relatives to move bail petition for the release of the detenu, there is no material to support such contention. For the said reason, the order under challenge would have to fall.

Accordingly, the impugned detention order passed by the first respondent, detaining the detenu, namely, Hayath Basha S/o.Mohamed Bashir, made in BCDFGISSSV No.74/2018 dated 09.02.2018, is quashed and the Habeas Corpus Petition is allowed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

gm

To

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600009.

WEB COPY

2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
(Goondas Section),
Vepery, Chennai - 600007.

3.The Inspector of Police
N.I.B. CID,
Chennai Unit, Chennai.

4.The Public Prosecutor,
High Court, Madras.

5.The Superintendent of Central Prison,
Puzhal, Chennai.

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

H.C.P.No.1413 of 2018

CSL/26.11.2018



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