

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE S.NAGAMUTHU

H.C.P.No.1965/2015

Karpagam

..... Petitioner

Vs

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

2.The Commissioner of Police,
Chennai Police

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to call for the records relating to the detention order passed by the second respondent pertaining to the order made in Memo No.596/BCDFGISSSV/2015 dated 23.07.2015, in detaining the detenu under 2(F) of Tamil Nadu Act 14 of 1982, as a Goonda and quash the same and direct the respondents to produce the detenu Prabakaran, son of Anandan, aged about 27 years, who is detained at Central Prison, Puzhal, before this Court and set him at liberty.

For Petitioner : Mr.G.Nirmal Krishnan

For Respondents : Mr.A.N.Thambidurai,
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.NAGAMUTHU, J.]

The petitioner, who is the wife of the detenu-Prabakaran, has come up with this habeas corpus petition, challenging the detention order passed against Mr.Prabakaran by the second respondent, vide proceedings No.BCDFGISSSV No.596/2015, dated 23.07.2015.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

3. Though, several grounds were raised in the petition, the learned counsel appearing for the petitioner would mainly focus on the ground that though there was no bail application pending in Crime No.1894 of 2015, the detaining authority has stated that the relatives of the detenu were taking steps to file bail application, in which case there was real possibility of the detenu coming out on bail. The learned counsel pointed out that to arrive at such a conclusion, there was no material placed before the detaining authority at all.

4. The learned Additional Public prosecutor would submit that in the Special report submitted by the Inspector of Police, dated 20.07.2015, there is a statement to the effect that the relatives of the detenu were taking steps to file bail application seeking bail in connection with the case in Crime No.1894 of 2015.

5. We have considered the above submissions. Admittedly, as on the date of passing of the detention order, there was no application filed by the detenu seeking bail in Crime No.1894 of 2015, on the file of R-6 Kumaran Nagar Police Station. Though it is alleged that his relatives were taking steps to file an application for bail, there were no materials available before the detaining authority, except the report of the Inspector of Police. Even the report of the Inspector of Police does not spell out as to how he came to know that the relatives were taking steps to file application seeking bail. Full details as to who are those relatives, who were taking steps to file bail application also have not been mentioned. Thus, in our considered view, without making proper application of mind relating to these facts, the detaining authority has passed the detention order. Therefore, we are inclined to set aside the same.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 23.07.2015, passed by the second respondent is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to Government
The State of Tamil Nadu
Home, Prohibition and Excise Department
Fort St.George
Chennai 600 009.
- 2.The Commissioner of Police,
Chennai Police.
- 3.The Superintendent,
Central Prison,
Puzhal, Chennai.
- 4.The Joint Secretary to Government,
Public (Law & Order),
Fort St. George, Chennai-9.
- 5.The Additional Public Prosecutor,
High Court, Madras.

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H.C.P.No.1965/2015

kji(CO)
srg(08/03/2016)