

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.2052/2015

Mrs.Rama

..... Petitioner

Vs

1.The Commissioner of Police,
Chennai Police,
The Office of the Commissioner of Police,
Vepery, Chennai-600 007

2.The Government of Tamil nadu,
rep.by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009

..... 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 of the first respondent culminating with the order of detention bearing BCDFGISSSV No.687/2015 dated 03.08.2015 passed by the first respondent herein detaining the petitioner's son Thiru Udhaya @ Udhayakumar under Act XIV of 1982 and quash the same and direct the respondents to produce the body of the person of the detenu Thiru Udhaya @ Udhayakumar S/o.Ravi, male aged about 27 years before this Court, now detained in the Central Prison, Puzhal and thereby set him at liberty.

For Petitioner

: Mr.M.Jaikumar

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 mother of the detenu-Mr.Udhaya @ Udhayakumar, has come up with this habeas corpus petition, challenging the detention order passed against Mr.Udhaya @ Udhayakumar by the first respondent, vide his proceedings in Memo No.687/BCDFGISSSV/2015, dated 03.08.2015.

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 were no bail applications either pending in Crime Nos.600/15, 1894/15 and 1917 of 2015, the detaining authority has stated that the relatives of the detenu were taking steps to file bail applications, 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 were no materials 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 applications seeking bail in connection with the cases in Crime Nos.600/15, 1894/15 and 1917 of 2015.

5. We have considered the above submissions. Admittedly, as on the date of passing of the detention order, there were no applications filed by the detenu seeking bail in Crime Nos.600/15, 1894/15 and 1917 of 2015, on the file of R-6 Kumaran Nagar Police Station. Though it is alleged that his relatives were taking steps to file applications 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 of the detenu were taking steps to file applications seeking bail. Full details as to who are those relatives, who were taking steps to file bail applications also have not been mentioned. Thus, in our considered view, without making proper application of mind relating to the 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 03.08.2015, passed by the first respondent is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

msk

To

- 1.The Commissioner of Police,
Chennai Police,
The Office of the Commissioner of Police,
Vepery, Chennai-600 007
- 2.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009
- 3.The Additional Public Prosecutor,
High Court, Madras.
4. The Superintendent
Central Prison,
Puzhal, Chennai
5. The Joint Secretary to Government
Public (Law and order) Department
Fort St. George, Chennai-9

H.C.P.No.2052/2015

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