

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2016

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU
and
THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.18 of 2016

S.Sasikala

... Petitioner/Wife
of the Detenu

Vs.

1. The Secretary to the Government,
Home Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The Commissioner of Police,
Chennai City.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to call for the records in connection with the order of detention passed by the second respondent on 23.11.2015 in Memo No.1196/BCDFGISSSV/2015 against the detenu, Siva, Male, aged 32 years, son of Kalimuthu, who is confined at Central Prison, Puzhal-II, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

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

O R D E R

[Order of the Court was made by V.BHARATHIDASAN,J.]

This Habeas Corpus Petition has been filed, by the wife of the detenu, namely, Siva, to issue a Writ of Habeas Corpus, to call for the entire records connected with the detention order of the second respondent, in Memo No.1196/BCDFGISSSV/2015, dated 23.11.2015 and set aside the same and direct the respondents to produce the body and person of the petitioner's

husband by name Siva, son of Kalimuthu, aged about 32 years detained in Central Prison, Puzhal-II, Chennai, before this Court and set him at liberty.

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

3.Though, several grounds have been raised in this Habeas Corpus Petition, Mr.S.Senthilvel, the learned counsel appearing on behalf of the petitioner, had assailed the impugned detention order mainly on the ground that the detaining authority had stated, in Paragraph No.4 of the order of detention, that no bail application has been moved on behalf of the detenu, in D.3 Ice House Police Station Crime No.2620/2015. However, in the detention order, it had been stated that the relatives of the detenu are taking action to take him out on bail, in D.3 Ice House Police Station Crime No.2620/2015, by filing bail application before the appropriate Courts.

4.It is noted from the records available that, no statements had been recorded from the relatives concerned, to substantiate the claim, that they are taking steps to move bail applications, on behalf of the detenu, to take him out on bail, in the above said cases. In such circumstances, we find that there is non-application of mind on the part of the detaining authority, in passing the detention order. Therefore, we are inclined to set aside the detention order.

5.Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 23.11.2015, 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(CS V)

//True Copy//

Sub Assistant Registrar

sri

To

1. The Secretary to the Government,
Home Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2. The Commissioner of Police,
Chennai City.
3. The Superintendent,
Central Prison,
Puzhal, Chennai.
4. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
5. The Additional Public Prosecutor
High Court, Madras.

H.C.P.No.18 of 2016

GJ II(CO)
CA(14/06/2016)



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