

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2016

CORAM

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

H.C.P.No.370 of 2016

Suganya

.. Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by The Secretary,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.

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

... Respondents

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 Memo No.81/BCDFGISSSV/2016 dated 09.02.2016 passed by the second respondent under Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's husband, Gokul, S/o.Rajendran, aged about 33 years, the detenu, now confined at Central Prison, Puzhal, Chennai, before this Court and set the petitioner's husband, Gokul, S/o.Rajendran, aged about 33 years, the detenu herein at liberty.

For Petitioner : Mr.D.Gopi Krishnan

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, Gokul, to issue a Writ of Habeas Corpus, to call for the records connected with the detention order of the second respondent, in Memo No. 81/BCDFGISSSV/2016, dated 09.02.2016 and set aside the same and direct the respondents to produce the body and person of the petitioner's husband, by name Gokul, son of Rajendran, aged about 33 years detained in Central Prison, Puzhal, 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.D.Gopi Krishnan, 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 T-5 Thiruverkadu Police Station Crime Nos.53/2016 and 55/2016. 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 T-5 Thiruverkadu Police Station Crime Nos.53/2016 and 55/2016, 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 09.02.2016, 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 VII)

//True Copy//

Sub Assistant Registrar

sri

To

1.State of Tamil Nadu,
Rep. by The Secretary,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.

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

3.The Public Prosecutor
High Court, Madras.

4. The Superintendent, Central Prison,
Puzhal, Chennai-66.

5. The Joint Secretary to Government Public
(Law & order), Fort St. George, Chennai. 600 009.

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