

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.6.2016

CORAM

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.415 of 2016

Kalaivani ..Petitioner/wife of the detenu

Vs

1.The Principal Secretary
to Government, Home, Prohibition
and Excise (XVI) Department ,
Secretariat, Chennai - 600 009.

2.The Commissioner of Police,
O/o, the Commissioner of Police,
Chennai.

3. The Inspector of Police,
V6, Kolathur Police Station,
Chennai District.

..Respondents

Prayer: Petition filed under Article 226 of the
Constitution of India, praying to issue a WRIT OF HABEAS CORPUS
calling for the records
relating to the order of detention MEMO NO.49/BCDFGISSSV/2016
dated 03/02/2016 passed by the 2nd respondent and to quash the
same and also to direct the detenu SURYA S/O.ARUMUGAM who is
presently detained in the Central Prison, PUZHAI CHENNAI to
be produced before this Hon'ble court and set at liberty.

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

ORDER

(Order of the Court was made by S.NAGAMUTHU, J.)

This Habeas Corpus Petition has been filed, by the wife
of detenu, namely, Surya, to issue a Writ of Habeas Corpus, to
call for the entire records connected with the detention order
of the second respondent, in 49/BCDFGISSSV/2016, dated

03.02.2016 and quash the same and direct the respondents to produce the body and person of the petitioner's husband by name Surya, son of Arumugam, aged about 28 years detained in Central Prison, Puzhal, Chennai, before this Court and set him at liberty forthwith.

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.A.Raja Mohamed, 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 the detenu has moved a bail application for V-6, Kolathur Police Station in Cr.No.30/2016 before the Court of Principal Sessions Judge, Chennai in CrI.M.P.No.873/2016 and the same is dismissed and no bail applications had been moved on behalf of the detenu, in V-6, Kolathur Police Station in Cr. No.27/2016. However, in the detention order, it had been stated that the relatives of the detenu are taking action to take him out on bail, by filing another bail application for V-6 Kolathur Police Station in Cr.No.30/2016 and fresh bail application for V-6, Kolathur Police Station in Cr. No.27/2016 before the appropriate Court.

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 03.02.2016, 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(V)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Police,
O/o, the Commissioner of Police,
Chennai.

3. The Inspector of Police,
V6, Kolathur Police Station,
Chennai District.

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

4. The Joint Secretary to Government,
Public (Law and Order),
Fort St. George, Chennai.

5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.A.Raja Mohamed, Advocate, S.R.No.31984

AK(CO)
EU(01/07/2016)

H.C.P.No.415 of 2016

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