

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2016

CORAM

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

H.C.P.No.435 of 2016

CHELLAKANNU

..Petitioner

vs.

1. THE PRINCIPAL SECRETARY TO
THE GOVERNMENT GOVERNMENT
OF TAMIL NADU HOME PROHIBITION
AND EXCISE DEPT. FORT ST.
GEORGE CHENNAI - 600 009.

2 THE DISTRICT COLLECTOR AND
DISTRICT MAGISTRATE
ARIYALUR DISTRICT ARIYALUR.

..Respondent

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the records relating to the order of detention CR.M.P. NO. 04/2016 dated 17/02/2016 passed by the 2nd respondent and to quash the same and also to direct the detenu VENKATESAN S/O. CHELLAKKANNU who is presently detained in the Central Prison TIRUCHIRAPPALLI to be produced before this Hon'ble court and set at liberty.

For Petitioner : Mr.M.R.Jothimanian

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 father of detenu, namely, Venkatesan, to issue a Writ of Habeas Corpus, to call for the entire records connected with the detention order of the second respondent, in Cr.M.P.No.04/2016, dated 17.02.2016 and quash the same and direct the respondents to produce the body and person of the petitioner's son by name Venkatesan, aged about 27 years detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty forthwith.

2. Even though the learned counsel for the petitioner raised many grounds in assailing the impugned order of detention in the petition, he focused his argument on the ground that in Cr.No.13 of 2016, the bail application filed by the detenu were dismissed by the learned Magistrates concerned and thereafter, no fresh application was filed by him seeking bail. When that be so, the satisfaction arrived at by the detaining authority, that there is likelihood of the detenu coming out on bail is absolutely baseless.

3. We have considered the above submissions.

4. As rightly pointed out by the learned counsel for the petitioner, from paragraph 5 of the detention order, it is crystal clear that the detenu had not filed any application seeking bail, after dismissal of the earlier applications. When that be so, it is not explained to the Court as to how the detaining authority has come to the conclusion that there was real possibility of the detenu coming out on bail. This shows the predetermined mind of the detaining authority. In such view of the matter, the detention order is liable to be quashed.

5. Accordingly, the habeas corpus petition is allowed and the detention order dated 17.02.2016, passed by the 2nd respondent is quashed. The detenu is directed to be set at liberty, forthwith, unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Principal Secretary to Government,
Government of Tamil Nadu
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Ariyalur District, Ariyalur.
- 3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

4. The Joint Secretary to Government,
Public (Law and Order),
Fort St. George, Chennai-9

5. The Public Prosecutor,
High Court, Madras.

SV(CO)
EU(04/07/2016)

H.C.P.No.435 of 2016



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