

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.05.2017

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN
and
THE HONOURABLE MR.JUSTICE S.BASKARAN

H.C.P No.101 of 2017

Singaram

...Petitioner

Vs

1. State of Tamil Nadu,
Rep. By its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009
2. The District Collector & District
Magistrate, Vellore District, Vellore 9. ...Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 04.01.2017 in C3.D.O.No.02/2017 against the petitioner's uncle, Anandan, s/o.Ramasamy, who is confined at Central Prison, Vellore and to quash the same and consequently direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.C.C.Chellappan

For respondents : Mr.V.M.R. Rajentren,
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by M.V.Muralidaran, J.,)

The petitioner, who is the nephew of the detenu Anandan, has come up with this habeas corpus petition, challenging the detention order passed against his uncle by the second respondent, vide proceedings C3.D.O.No.02/2017 dated 04.01.2017.

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 the detenu was in remand in connection with Cr.Nos.403 of 2016 (3rd adverse case) and 404 of 2016 (ground case), the detaining authority has relied upon the similar case registered only in respect of the ground case while arriving at a subjective satisfaction of the detenu coming out on bail and not at all stated anything in respect of Cr.No.403 of 2016, which prevented the detenu from making an effective representation before the authority concerned and the order of detention gets vitiated on this ground alone.

4. Per contra, the learned Additional Public Prosecutor would submit that, the order of detention has been passed, on cogent and sufficient materials and the same cannot be interfered with, at the instance of the petitioner. Therefore, he submits that the Habeas Corpus Petition, does not merit any consideration and the same is liable to be dismissed.

5. We have considered the above submissions. Admittedly, as on the date of passing of the detention order, the detenu was in remand in both the 3rd adverse case and the ground case and while relying on the similar case registered for the likelihood of the detenu coming out on bail, the detaining authority has not referred any material with regard to the third adverse case about the similar case registered for the offence and has referred only for the ground case. This prevented the detenu from making an effective representation before the authority concerned. 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 04.01.2017, 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/-
Asst. Registrar

/true copy/

Sub Asst. Registrar

sra

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009
2. The District Collector & District
Magistrate, Vellore District, Vellore 9.
3. The Superintendent, Central Prison,
Vellore.
4. The Joint Secretary to Government,
Public (Law & Order)
Fort St. George, Chennai-9.
5. The Public Prosecutor,
High Court, Chennai.

H.C.P.No.101 of 2017

BR(CO)
VR(12/06/2017)



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