

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.05.2017

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

and

THE HONOURABLE JUSTICE R.MAHADEVAN

H.C.P No.127 of 2017

Rehona Begam

...Petitioner

Vs

1.The State Represented by,
Secretary to Government (Home),
Prohibition and Excise Department,
Fort St. George,
Chennai 600 009.

2.The District Collector and District Magistrate,
Vellore District,
Ariyalur.

...Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus of any other appropriate writ or direction in the nature of writ calling for the entire records in pursuant to the detention order issued by the 2nd respondent vide C3.D.O.No. 5 of 2017 dated 12-01-2017 and set aside the same and consequentially direct the respondents to produce the detenu Basha S/o Sherkhan aged about 30 years husband of the petitioner now confined at Central Prison, Vellore, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr. S.Sakthivel for
Mr. M.Sathishkumar.

For Respondents: Mr.E.Raja,
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu seeking to challenge the detaining order dated 12.01.2017.

2 The petitioner would submit that the detention order is liable to be set aside for having furnished illegible copies of the documents relied upon ; the non-application of mind on the part of the detaining authority as no bail application is pending and there is no material for coming to the conclusion that the detenu would come out on bail.

3 Incidentally, it is submitted that on the very same issue, this Court has set aside the detention order in favour of the co-accused in H.C.P.No.128 of 2017 dated 17.05.2017; H.C.P.No.149 of 2017 dated 11.05.2017 and H.C.P.No.165 of 2017 dated 12.05.2017.

4 Learned Additional Public Prosecutor would submit that the detaining authority has taken into consideration, the relevant materials and therefore no interference is required.

5 Admittedly, the bail application of the detenu was dismissed and thereafter, no application was pending at the time of passing of the detention order. There is no material relied upon by the detaining authority to come to the subjective satisfaction that in the event of filing a fresh application, the detenu would come out on bail.

6 Secondly, taking into consideration of the fact that in similar cases involving co-accused this court has satisfied the detention orders in H.C.P.No.128 of 2017 dated 17.05.2017; H.C.P.No.149 of 2017 dated 11.05.2017 and H.C.P.No.165 of 2017 dated 12.05.2017, we are of the view that the reason being the same, the detenu is also entitled for the very same relief.

7 In such view of the matter, we are of the opinion that the detention order is liable to be set aside.

8 Accordingly, the Habeas Corpus Petition is allowed and the detention order dated 12.01.2017 passed by the 2nd respondent is hereby set aside and the detenu is directed to be released forthcoming unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The Secretary to Government (Home),
State of Tamilnadu,
Prohibition and Excise Department,
Fort St. George,
Chennai 600 009.
- 2.The District Collector and District Magistrate,
Vellore District,
Ariyalur.
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 of Madras.

H.C.P.No.127 of 2017

KJI (CO)
RS(08/06/2017)

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