

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.139 of 2017

Srinivasan

.. Petitioner

Vs

1. The State of Tamilnadu,
Rep. By its Secretary to Government,
Prohibition and Excise Dept.,
Fort St. George, Chennai - 600 009.

2. The District Magistrate and The District
Collector, Dharmapuri District, Dharmapuri. ..
Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ, order or Direction in the nature of a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 28.12.2016 in S.C.No.41/2016 against the son of the petitioner, detenu Sivakumar, aged about 26 years, S/o.Seenivasan who is confined at Central Prison, Salem, and to set aside the same and consequently direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.M.Guruprrasad

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 father of the detenu Charles, has come up with this habeas corpus petition, challenging the detention order passed against his son by the second respondent, vide proceedings S.C.No.41/2016 dated 28.12.2016.

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 bail application filed in Crime No.418/2016 was pending before the lower Court, the detaining authority has stated that the relatives of the detenu were taking steps to file another bail application in a higher Court, in which case there was real possibility of the detenu coming out on bail, which shows the non-application of mind by the detaining authority and the order of detention gets vitiated on this ground alone.

4. The learned Additional Public prosecutor would submit that in the Special report submitted by the Inspector of Police, there is a statement to the effect that the relatives of the detenu were taking steps to file bail application seeking bail in connection with the case in Crime No.418/2016.

5. We have considered the above submissions. Admittedly, as on the date of passing of the detention order, there was a bail application filed by the detenu pending in the ground case (Crime No.418/2016). However, the detaining authority, without applying his mind, has stated that the relatives of the detenu are taking steps to file an application for bail before the higher Court. 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 28.12.2016, 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

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Sub Assistant Registrar

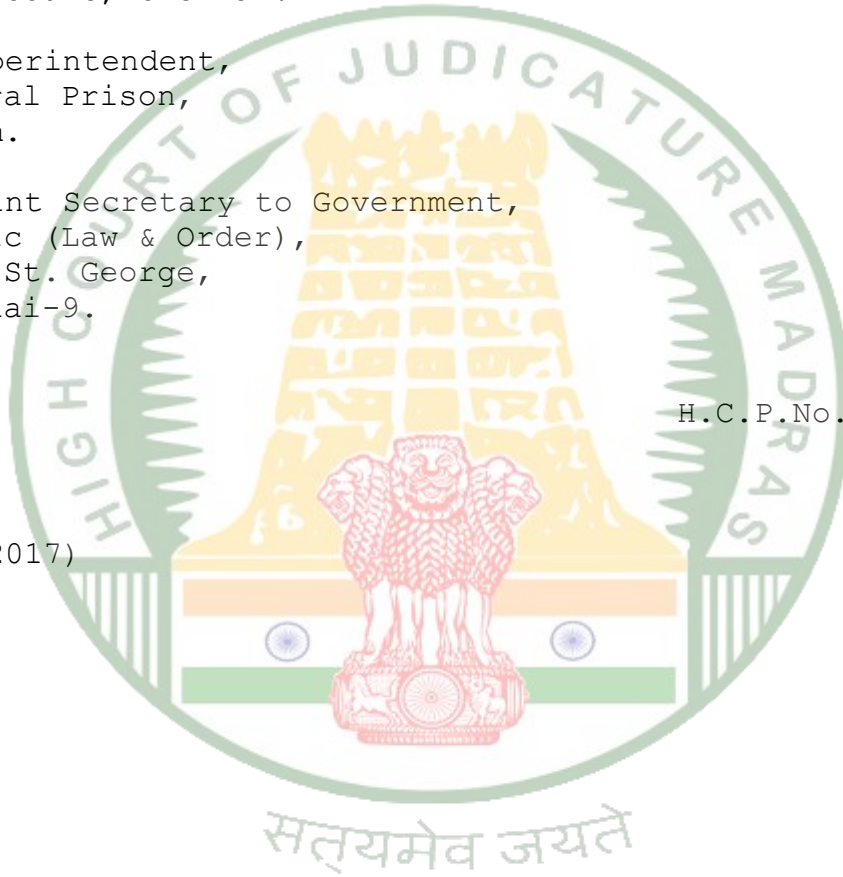
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To

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

H.C.P.No.139 of 2017

RR(CO)
RS(09/06/2017)



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