

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.149 of 2017

Mageswari

...Petitioner

Vs

1. The 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 28.12.2016 in C3.D.O.No.88/2016 against the petitioner's husband, Chinna @ Chandiran, S/o Narayanan , who is confined at Central Prison, Vellore 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.D.Balaji

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 wife of the detenu Chinna @ Chandiran, has come up with this habeas corpus petition, challenging the detention order passed against her husband by the second respondent, vide proceedings C3.D.O.No.88/2016 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 on behalf of the detenu in Crime No.559/2016 was pending and no cogent material with regard to the similar case relied upon having been furnished, the detaining authority has stated that there was real possibility of the detenu coming out on bail, which shows the non-application of mind 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, there was an application seeking bail in Crime No.559/2016 on the file of Vellore South (Law & Order) Police Station was pending and no material in respect of the similar case relied upon by the detaining authority was furnished to the detenu, in order to make effective representation, which shows the non-application of mind on the part of the detaining authority. Thus, in our considered view, without making proper application of mind relating to these 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(CS VI)

//True Copy//

Sub Assistant Registrar

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 and order)
Fort.St. George
Chennai 9
5. The Public Prosecutor, High Court, Chennai.

SKS (CO)
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