

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.05.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN
and
THE HONOURABLE MR.JUSTICE S.BASKARAN
H.C.P.No.159 of 2017

Kalaiselvi

.. Petitioner

Vs.

1.The Secretary to the Government,
Home Prohibition and Excise Dept.,
Secretariat, Chennai 600 009.

2.The District Collector &
District Magistrate,
Vellore District, Salem.

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus to call for the records in connection with the order of Detention passed by the second respondent 28.12.2016 in C3.D.O.No.89/2016 against the petitioner husband Asen, male, aged 28 years, S/o Saleem, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before the Court and set him at Liberty.

For Petitioner : Mr.D.Balaji

For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

ORDER

[Order of the Court was made by M.V.MURALIDARAN, J.]

This Habeas Corpus Petition has been filed by the wife of the detenu, namely, Asen, male, aged 28 years, S/o Saleem, to issue 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 C3D.O.No.89/2016 against the petitioner husband Asen, male, aged 28 years, S/o Saleem, who is confined at the Central Prison, Vellore and to set aside the same and to direct the respondents to produce the detenu before

this Court and set him at Liberty.

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 in the ground case the bail application filed in Crime No.559/2016 before the Sessions Court, Vellore in C.R.M.P.No.5232/2016 is pending, the Detaining Authority has stated that the relatives of the detenu were taking steps to file bail petition, in which case there was real possibility of the detenu coming out on bail. The learned counsel pointed out that to arrive at such a conclusion, there was no material placed before the detaining authority at all.

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.559/2016.

5. We have considered the above submissions. Admittedly, as on the date of passing of the detention order, in the ground case the bail application filed in Crime No.559/2016 before the Sessions Court, Vellore is pending in C.R.M.P.No.5232/2016. Though it is alleged that his relatives were taking steps to file an application for bail, there were no materials available before the Detaining Authority, except the report of the Inspector of Police. Even the report of the Inspector of Police does not spell out as to how he came to know that the relatives were taking steps to file application seeking bail. Full details as to who are those relatives, who were taking steps to file bail application also have not been mentioned. 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.

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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

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to the Government,
Home Prohibition and Excise Dept.,
Secretariat, Chennai 600 009.
2. The District Collector &
District Magistrate,
Vellore District, Vellore.
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, Madras.

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

H.C.P.No.159 of 2017

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