

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.04.2017

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU
and
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

H.C.P No.18 of 2017

S.Ranjith

...Petitioner

Vs

1. State of Tamil Nadu,
Rep. By the Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009
 2. The District Collector and District Magistrate,
Office of the District Collectorate,
Cuddalore Distrc.
 3. The Superintendent,
Special Prison for Women, Vellore District.
 4. The Inspector of Police,
Prohibition Enforcement wing,
Panruti,
Cuddalore Distrc
-Respondents

Prayer: 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, calling the respondents to produce the records in connection with the Detention order No.C3/D.O/28/2016, that has been passed by 2nd respondent dated 04.11.2016 and quash the same and produce the petitioner's mother, Selvarani, W/o Selvam aged about 40 years, now detained in Special Prison for Women, Vellore. As bookleggers and pradnced her before the hon'ble court and set her at liberty.

For Petitioner : M/s.P.Saravanan

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

ORDER

(Order of the Court was made by S. NAGAMUTHU,J.,)

The petitioner, who is the son of the detenue Selvarani, W/o Selvam, has come up with this Habeas Corpus Petition, challenging the detention order passed against her by the second respondent, vide proceedings C3/D.O/28/2016 dated 04.11.2016.

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 bail application was filed in CrI M.P.No.3479/2016 before the Court of District Sessions Judge, Cuddalore in respect of Crime No.822/2016 on the file of Prohibition and Enforcement Wing, Panruti and the same was dismissed on 02.11.2016, there was no further bail application pending as on the date of passing of the detention order by the second respondent in Crime No.822/2016 and the detaining authority has stated that the relatives of the detenue were taking steps to file bail application, in which case there was real possibility of the detenue 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 detenue were taking steps to file bail application seeking bail in connection with the case in Crime No.822/2016.

5. We have considered the above submissions. Admittedly, as on the date of passing of the detention order, there was no application filed by the detenue seeking bail in Crime Nos.822/2016 on the file of Prohibition and Enforcement Wing, Panruti. Though it is alleged that her 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.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 04.11.2016, passed by the second respondent is set aside. The detainee is directed to be released forthwith unless her presence is required in connection with any other case.

Sd/-

ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

To

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009
 2. The District Collector and District Magistrate,
Office of the District Collectorate,
Cuddalore District.
 3. The Superintendent,
Special Prison for Women, Vellore District.
 4. The Inspector of Police,
Prohibition Enforcement wing,
Panruti,
Cuddalore District. सत्यमेव जयते
 5. The Joint secretary to Govt. Public (law & order)
fort st. George, chennai 09
 6. The Public Prosecutor, High Court, Chennai.
- +1cc to MR. P.SARAVANAN Advocate SR.NO. 26179

Order in
H.C.P No.18 of 2017

RSY(CO)
T.R (17/05/2017)