

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.05.2017

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THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN
and
THE HONOURABLE MR.JUSTICE S.BASKARAN

H.C.P No.214 OF 2017

Saradha

.. Petitioner

/versus/

- 1.State of Tamil Nadu Rep.by its
Principal Secretary,
Department of Home, Prohibition Excise,
Secretariat, Chennai 600 009.
 - 2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai 600 007.
 - 3.The State rep.by
The Inspector of Police,
S-8, Adampakkam Police Station,
Chennai.
- ... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the records in Memo No.01/BCDFGISSSV/2017 dated 09.01.2017 on the file of the 2nd respondent and quash the detention order as illegal and direct the respondents to produce the detenu Jai @ Jayakumar, Son of Arumugam, aged about 26 years detenu now confined at Central Prison, Puzhal, Chennai and set him at liberty.

For Petitioner : Mr.G.Pavendhan

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

ORDER

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

The petitioner, who is the mother of the detenu, Jai @ Jayakumar, Son of Arumugam, has come up with this habeas corpus petition, challenging the detention order passed against Jai @ Jayakumar by the second respondent, vide proceedings Memo No.01/BCDFGISSSV/2017 dated 09.01.2017.

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 there was no bail application pending in Crime No.1210/2016, the detaining authority has stated that the relatives of the detenu were taking steps to file bail application, 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.1210/2016.

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 detenu seeking bail in Crime No.1210/2016 on the file of F5-Choolaimedu Police Station. 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.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 09.01.2017 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/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

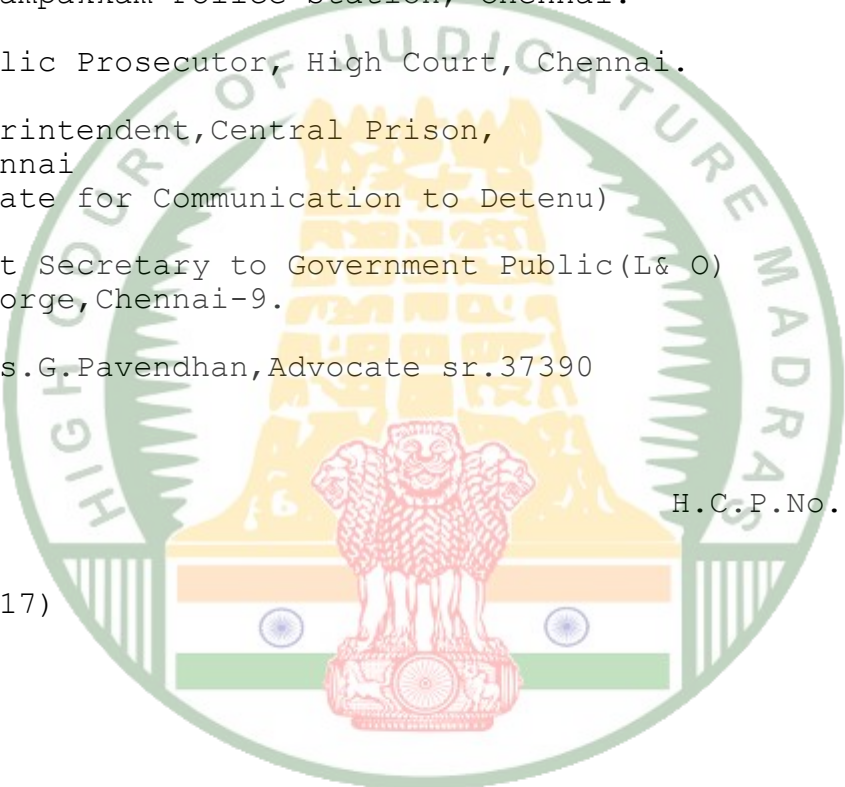
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To

- 1.State of Tamil Nadu Rep.by its Principal Secretary,
Department of Home, Prohibition Excise,
Secretariat, Chennai 600 009.
 - 2.The Commissioner of Police, Greater Chennai,
Vepery, Chennai 600 007.
 - 3.The State rep.by the Inspector of Police,
S-8, Adampakkam Police Station, Chennai.
 4. The Public Prosecutor, High Court, Chennai.
 - 5.The Superintendent,Central Prison,
Puzhal,Chennai
(In Duplicate for Communication to Detenu)
 - 6.The Joint Secretary to Government Public(L& O)
Fort St.George,Chennai-9.
- +1cc to M/s.G.Pavendhan,Advocate sr.37390

ss(co)
ss(23/6/2017)

H.C.P.No.214 of 2017

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital on top. Below the gopuram is a red and white striped banner. The entire emblem is set against a green background with a white border. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a circular path around the emblem. Below the emblem, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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