

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.223 of 2017

D. Sareswathi

..Petitioner

Vs.

1. The Secretary to Government,
Govt. Of Tamil Nadu,
Home, Prohibition & Excise
Department,
Fort St. George,
Chennai - 600 009.

2. The District Collector and District
Magistrate,
Krishnagiri, Krishnagiri District.

..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 of the detention made in S.C. No. 3/2017 dated 27.01.2017 on the file of the 2nd respondent herein and set aside the same and direct the respondents to produce the detenu Thiru Diwakar S/o. Thiru Chinnsamy, aged 24 years, now confined in Central Prison, Salem, before this Court and set him at liberty.

For Petitioner :: Mr.E.C. Ramesh

For Respondents :: Mr.V.M.R.Rajentren,
Additional 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 Diwakar, S/o. Thiru. Chinnasamy, has come up with this habeas corpus petition, challenging the detention order passed by the 2nd respondent, vide proceedings made in made in S.C. No. 3/2017 dated 27.01.2017.

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 no bail applications were filed by the detenu, in respect of second adverse case and ground case in Crime Nos.440/2016 & 442/2016 respectively on the file of Bagalur Police Station, the Detaining Authority has said that the Sponsoring Authority has filed a special report stating that the relatives of the detenu were taking steps to file bail applications, in the above mentioned second adverse case and ground case, 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 second adverse case and ground case in Crime Nos.440/2016 & 442/2016 respectively on the file of Bagalur Police Station.

5. We have considered the above submissions. Admittedly, as on the date of passing of the detention order, no applications were filed by the detenu seeking bail in Crime Nos.440/2016 & 442/2016 on the file of Bagalur Police Station. Though it is alleged that his relatives were taking steps to file applications 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, in S.C. No. 3/2017 dated 27.01.2017, passed by the 2nd 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(CCC)

//True Copy//

Sub Assistant Registrar

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To

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

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