

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH  
and  
THE HONOURABLE MR.JUSTICE R. SUBRAMANIAN

H.C.P.No.232 of 2017

J.Thilagavathi  
W/o.Jagadesan

... Petitioner/Mother of the Detenue

Vs.

1.State of Tamil Nadu,  
Rep. By its Principal Secretary,  
Department of Home, Prohibition  
and Excise, Secretariat,  
Chennai - 600 009.

2.The Commissioner of Police,  
Greater Chennai, Veppery,  
Chennai - 600 007.

3.The State rep. By  
The Inspector of Police,  
S-8, Adampakkam Police Station,  
Chennai.

.... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records in Memo No.07/BCDFGISSU/2017 dated 09/01/2017 on the file of the 2<sup>nd</sup> respondent and quash the detention order as illegal and direct the respondents to produce the detenu Hariharan, S/o.Jagadesan aged about 23 years detenu now confined at Central Prison, Puzhal, Chennai and set his at liberty.

For Petitioner : Mr.G.Pavendhan

For Respondents : Mr.E.Raja,  
Addl. Public Prosecutor

O R D E R

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

The petitioner, who is the mother of the detenu seeks to quash the detention order dated 09.01.2017, passed by the second respondent.

2. The learned counsel for the petitioner submits that the detention order is liable to be quashed on the ground of non-application of mind, since no similar orders passed by the Court with respect to the imminent possibilities of enlargement of the detenu on bail are referred to in the order of detention. Merely because bail application is pending, the same cannot be a ground to pass a detention order.

3. Incidentally it is the submission of the learned counsel for the petitioner that for the co-detenus, against whom some detention orders have been passed on the very same ground, this Court has quashed the detention orders in H.C.P.Nos.210 and 214 of 2017, dated 12.05.2017.

4. The learned Additional Public Prosecutor is unable to contradict the said submission made with respect to the orders passed by this Court in favour of the co-detenus.

5. Considering the above and taking note of the submissions made, we are of the view that the detention order is liable to be quashed, since there is no basis that has been indicated for passing the same apart from the pendency of the bail application, especially when there is no similar orders available for the imminent possibilities of enlargement of the detenu on bail.

6. Accordingly, the Habeas Corpus Petition is allowed and the detention order dated 09.01.2017, passed by the second respondent, is quashed. The detenu is directed to be set at liberty, forthwith, unless his presence is required in connection with any other case.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vsm  
To

1.The Principal Secretary,  
Government of Tamil Nadu,  
Department of Home, Prohibition  
and Excise, Secretariat,  
Chennai - 600 009.

2.The Commissioner of Police,  
Greater Chennai, Veppery,  
Chennai - 600 007.

3. The Inspector of Police,  
S-8, Adampakkam Police Station,  
Chennai.

4. The Superintendent of Central Prison,  
Puzhal, Chennai.

5. The Joint Secretary to Government,  
Fort Saint George, Chennai - 9.

6.The Public Prosecutor,  
Madras High Court, Chennai.

+1cc to Mr.Pavendhan, Advocate Sr.37585

H.C.P.No.232 of 2017

ks[co]  
srg 06/06/2017

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