

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.238 OF 2017

N.Senthil Kumar, M/A(36 years),
S/o Nagarajan. .. Petitioner

/versus/

- 1.State of Tamil Nadu Rep.by
The Secretary to Government,
Home, Prohibition Excise Department,
Fort St.George, Chennai 600 009.
- 2.The Commissioner of Police,
Greater Chennai, Chennai Police,
Vepery, 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 pertaining to the order of detention passed in No.27/BCDFGISSSV/2017 dated 10.01.2017 passed by the 2nd respondent and set aside the same and directing the respondents to produce the petitioner's brother by name Saravanan @ Saravanakumar, son of Nagaraj, aged about 32 years, before this Court now confined in Central Prison, Puzhal, Chennai set him at Liberty.

For Petitioner : Mr. K.Thenrajan

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 brother of the detenu Saravanan @ Saravanakumar, s/o Nagaraj, has come up with this habeas corpus petition, challenging the detention order passed against Saravanan @ Saravanakumar by the second respondent, vide proceedings Memo No.27/BCDFGISSSV/2017, dated 10.01.2017.

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 the bail application filed in Crime No.1972/2016 was dismissed, 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.1972/2016.

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.1972/2016 on the file of H8 Thiruvottiur 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 10.01.2017 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 IV)

/true copy/

Sub Asst. Registrar

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To

1. The Secretary to Government,
Home, Prohibition Excise Department,
Fort St.George, Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai, Chennai Police,
Vepery, Chennai.
3. The Superintendent,
Central Prison,
Puzhal, Chennai.
4. The Joint Secretary to Government,
Public(Law & Order)Department
Fort St.George, Chennai-9
5. The Public Prosecutor, High Court, Chennai.

Order in
H.C.P.No.238 of 2017

EV(CO)
NR 27/06/2017



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