

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.239 of 2017

S. Jamuna

..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

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to call for the records, pertaining to the order of detention passed in No.1180/BCDFGISSSV/2016 dated 28.11.2016 passed by the 2nd respondent and set aside the same and direct the respondents to produce the petitioner's son by name Venu @ Venugopal S/o Sarathy, aged about 27 years before this Hon'ble Court, now confined in Central Prison, Puzhal, Chennai, and set him at liberty.

For Petitioner :: Mr.K.Thenrajan

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 mother of the detenu Venu @ Venugopal, S/o Sarathy, has come up with this habeas corpus petition, challenging the detention order passed by the 2nd

respondent, vide proceedings No. 1180/BCDFGISSSV/2016 dated 28.11.2016.

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 though the bail application in CrI.M.P. No. 19413/2016 moved by the detenu in the ground case, in Cr.No. 1214/2016 on the file of N4, Fishing Harbour Police Station, was dismissed by the Court of Principal Sessions, Chennai and there was no fresh bail application moved in the above mentioned ground case, the detaining authority has stated that the relatives of the detenu were taking steps to file bail application, in the above mentioned 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 case in Crime No.1214/2016.

5. We have considered the above submissions. Admittedly, as on the date of passing of the detention order, there was no fresh application filed by the detenu seeking bail in Crime No.1214/2016 on the file of N4 Fishing Harbour 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 28.11.2016, 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

//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 Commissioner of Police,
Greater Chennai,
Chennai Police,
Vepery, Chennai.
5. The Superintendent of Central Prison,
Puzhal, Chennai.
4. The Joint Secretary to Government,
Public (Law & Order),
Fort St. George, Chennai-9.
3. The Public Prosecutor,
High Court, Chennai.

H.C.P.No. 239 of 2017

KK(CO)
RS(13/06/2017)