

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.251 of 2017

Vasanthan Krishnan

..Petitioner

Vs.

1. The State of Tamil Nadu rep. by
The Secretary to Government,
Home, Prohibition & Excise
Department,
Fort St. George,
Chennai - 600 009.
 2. The District Collector and
District Magistrate,
Tiruvannamalai District,
Tiruvannamalai.
- ...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS directing the respondents to produce the petitioner's husband by name Krishnan, S/o. Pachiyappan, aged about 46 years, before this Hon'ble Court, now confined in Central Prison, Salem, set him at liberty and to call for the records pertaining to the order of detention passed in D.O.No. 02/2017- C2 dated 17.01.2017 passed by the 2nd respondent and set aside the same.

For Petitioner :: Mr.T. Muruganantham
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 Krishnan, S/o Pachiyappan, has come up with this habeas corpus petition, challenging the detention order passed by the 2nd respondent, vide proceedings in D.O.No. 02/2017- C2 dated 17.01.2017.

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 paragraph No.5 of the Grounds of Detention, wherein, it is stated that though there was no bail application filed in the ground case in Crime No.889/2016 on the file of Thanipadi Police Station, the detaining authority has stated that the Sponsoring Authority has filed a Special Report stating 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.889/2016.

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.889/2016 on the file of Thanipadi 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 17.01.2017, 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

//True Copy//

Sub Assistant Registrar

nv

To

1. The Secretary to Government,
The State of Tamil Nadu rep. by
Home, Prohibition & Excise
Department,
Fort St. George,
Chennai - 600 009.

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

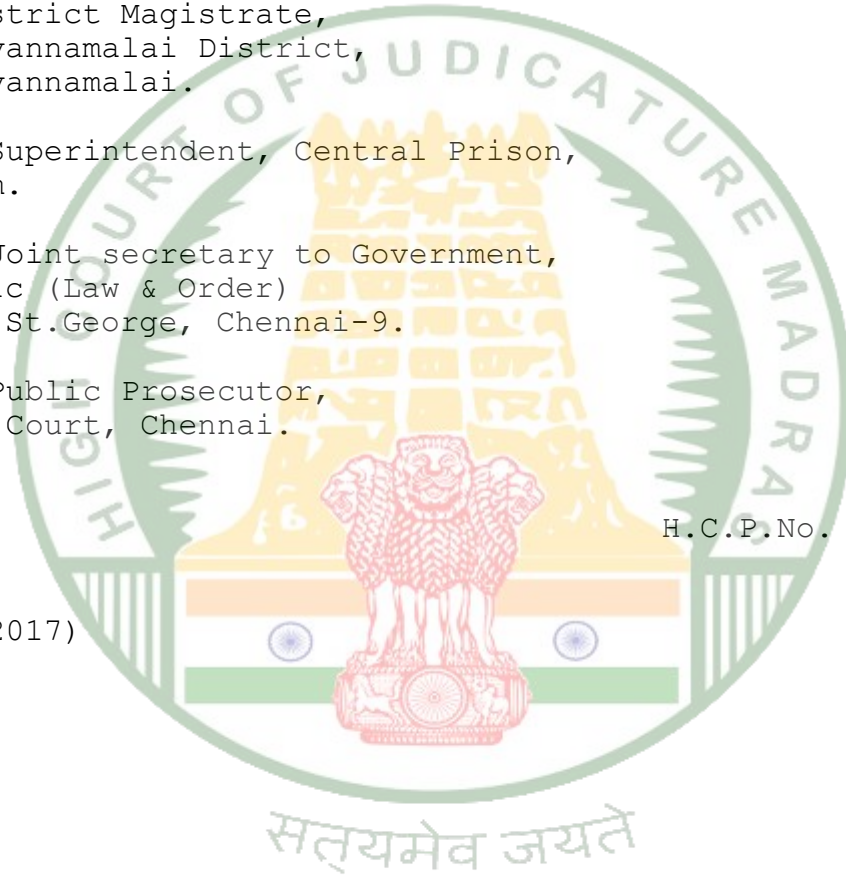
3. The Superintendent, Central Prison,
Salem.

4. The Joint secretary to Government,
Public (Law & Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor,
High Court, Chennai.

H.C.P.No. 251 of 2017

SK(CO)
VR(13/06/2017)



WEB COPY