

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.362 of 2017

V. Kanakarani

..Petitioner

Vs.

1. The State of Tamil Nadu,
rep by its Secretary to Government,
Home Prohibition and Excise
Department,
Fort St. George,
Chennai - 600 009
2. The Commissioner of Police/
Chennai Police,
Vepery, Chennai - 7.

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to call for the entire records, leading to the detention of the petitioner's son Jai @ Jayakumar S/o. Veerasamy, male, aged about 38 years, presently lodged in Central Prison, Puzhal, at Chennai and has been detained under Act 14/82 as a "Goonda" vide detention order dated 08.02.2017 on the file of the 2nd respondent herein, made in Memo No.49/BCDFGISSSV/2017, quash the same and consequently, direct the respondents herein to produce the body and person of the said detenu before this Hon'ble Court and thereafter, set him at liberty from the Central Prison, Puzhal, Chennai.

For Petitioner :: Mr.M. Rajavelu

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 Jai @ Jayakumar, S/o Veerasamy, has come up with this habeas corpus petition, challenging the detention order passed by the 2nd respondent, in Memo No.49/BCDFGISSSV/2017 dated 08.02.2017.

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.4 of the Grounds of Detention, wherein, it is stated that though there was no bail application moved by the detenu in the ground case in Crime No.416/2017 on the file of F.3, Nungambakkam Police Station, the detaining authority has stated that the Sponsoring Authority has said 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.416/2017.

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.416/2017 on the file of F.3, Nungambakkam 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 08.02.2017, 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/-
Deputy Registrar

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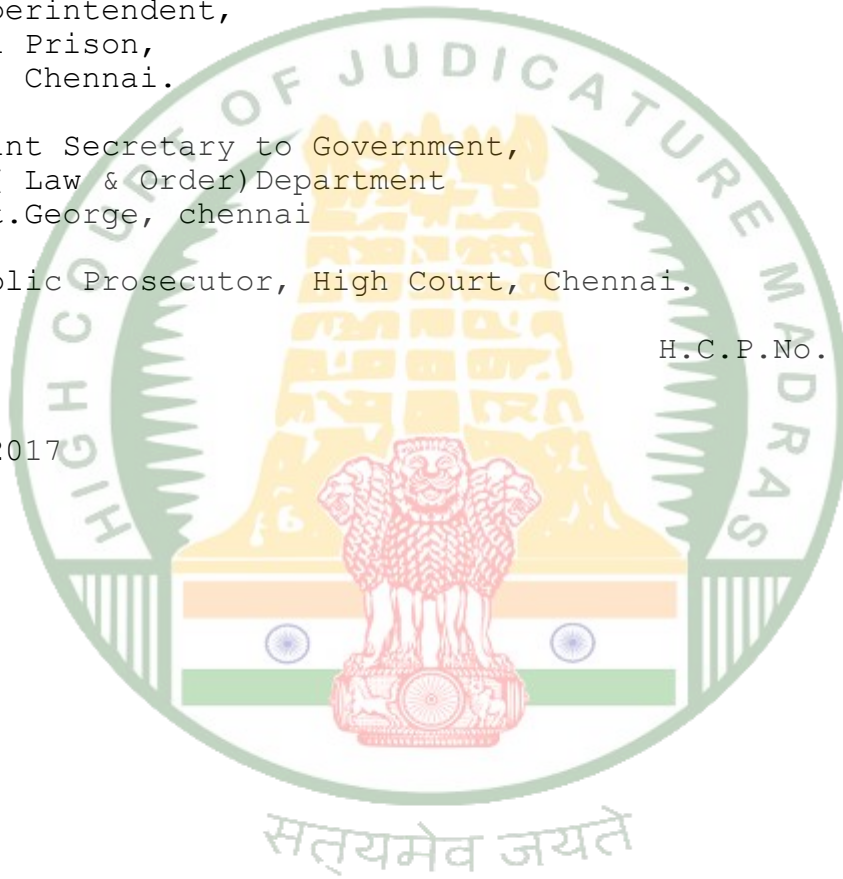
Sub Asst. Registrar

To

1. The State on Tamil Nadu rep.by
The Secretary to Government,
Home, Prohibition Excise Department,
Fort St.George, Chennai 600 009.
2. The Commissioner of Police,
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
5. The Public Prosecutor, High Court, Chennai.

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PPA(CO)
NR 27/06/2017



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