

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.415 of 2017

Raman

.. Petitioner

Vs

- State, rep. By
1. The The District Collector & District Magistrate, Dharmapuri District, Dharmapuri.
 2. The Secretary to Government, Home, Prohibition and Excise Department, Secretariat, Chennai - 600 009.
 3. The Inspector of Police, Dharmapuri Town Police Station, Dharmapuri District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the first respondent dated 05.01.2017 in S.C.No.02/2017 against the petitioner's son, Mani, s/o.Raman, aged 23 years who is confined at Central Prison, Salem and to set aside the same and consequently direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.V.Rajamohan

For respondents : Mr.V.M.R. Rajentren,
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by M.V.Muralidaran, J.,)

The petitioner, who is the father of the detenu Mani, has come up with this habeas corpus petition, challenging the detention order passed against his son by the first respondent, vide proceedings S.C.No.02/2017 dated 05.01.2017.

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 the order granting bail to the co-accused was relied upon by the detaining authority and in spite of the request made in the representation dated 13.02.2017 to the 2nd respondent, the same was not furnished to the petitioner, which prevented him from making an effective representation before the authority concerned against the order of detention passed against his son, which vitiates the order of detention.

4. Per contra, the learned Additional Public Prosecutor would submit that, the order of detention has been passed, on cogent and sufficient materials and the same cannot be interfered with, at the instance of the petitioner. Therefore, he submits that the Habeas Corpus Petition, does not merit any consideration and the same is liable to be dismissed.

5. We have considered the above submissions. A perusal of the booklet supplied to the detenu would show that the order granting bail to the co-accused referred and relied upon by the Detaining Authority, was not supplied to the detenu in the booklet and in spite of the request being made by way of a representation to the second respondent, the same was not furnished. This has resulted in the detenu being deprived of making an effective representation. Therefore, the detention order is vitiated and liable to be quashed on this ground alone.

7. It is a trite law that, personal liberty protected under Article 21, is so sacrosanct and so high in the scale of Constitutional values that, it is the obligation of the detaining authority to show that the impugned detention meticulously accords with the procedure established by law. Preventive detention is preventive and not punitive. When ordinary law of the land is sufficient to deal with, taking recourse to the preventive detention law is illegal.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 05.01.2017, passed by the first 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 II)

/true copy/

Sub Asst. Registrar

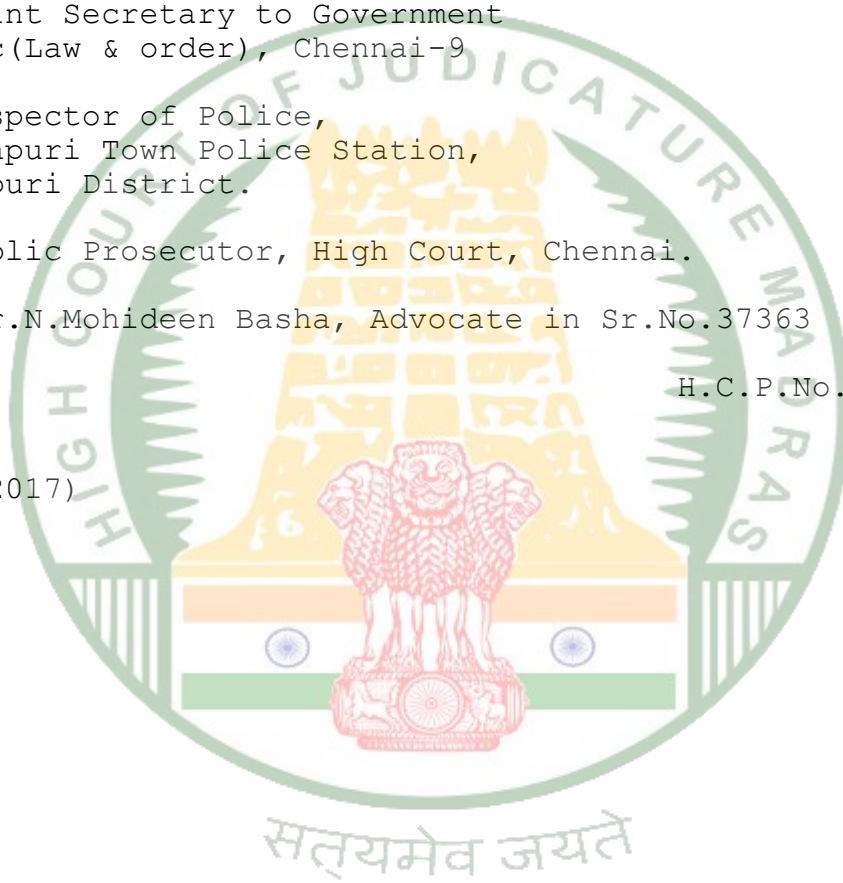
To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009
2. The District Collector & District
Magistrate, Dharmapuri District, Dharmapuri.
3. The Superintendent,
Central Prison, Salem
4. The Joint Secretary to Government
Public(Law & order), Chennai-9
5. The Inspector of Police,
Dharmapuri Town Police Station,
Dharmapuri District.
6. The Public Prosecutor, High Court, Chennai.

+lcc to Mr.N.Mohideen Basha, Advocate in Sr.No.37363

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RR(CO)
NR(14/06/2017)



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