

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.05.2017

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR. JUSTICE R.MAHADEVAN

HCP No.435/2017

Babu

... Petitioner

Vs

1. The State of Tamilnadu,
Represented by its Secretary,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
 2. The District Collector & District Magistrate
Tiruppur,
Vellore District.
- ... Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of Habeas Corpus calling for the records from the 2nd respondent in C.No.C3/D.O No.23/2017, Vellore City dated 23.02.2017 quash the same and also to direct the detenu Thiru.Pasupathi, S/o.Babu, who is presently detained in the Central Prison, Vellore to be produced before this Hon'ble Court and set at liberty.

For Petitioner : Mr.K.Kesavan

For Respondents : Mr.E.Raja,
Additional Public Prosecutor

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ORDER

[Order of the court was made by M.M.Sundresh, J.]

The petitioner is the father of the detenu seeking to challenge the detention order dated 23.02.2017.

2 The learned counsel for the petitioner would submit that the second bail application filed in the ground case was pending at the time of passing of the detention order. There is absolutely no reason assigned with respect to the imminent possibility of the detenu coming out on bail.

3 We have perused the Detention Order.

4 The Detention Order merely proceeds to state that after recording the pendency of the bail application moved in the ground case, the Detaining Authority is satisfied that there is necessity to detain the detenu. Thus, there is no discussion upon the material on the imminent possibility of the detenu coming out on bail. Hence, there is clear non application of mind on the part of the Detaining Authority. A mere pendency of the bail application per se, cannot be a ground to pass the Detention Order.

5 In such view of the matter, this Court is of the view that the Detention Order is liable to be set aside.

6 Accordingly, the Habeas Corpus Petition is allowed and the Detention Order passed by the 2nd respondent in C3/D.O.No.23/2017 dated 23.02.2017 is hereby 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

AP

To

1. The Secretary,
The State of Tamilnadu,
Represented by its Secretary,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
2. The District Collector & District Magistrate
Tiruppur,
Vellore District.

3. The Superintendent,
Central Prison, Vellore
4. The Joint Secretary to Government
Public (Law & Order)
Fort Saint George, Chennai-9
5. The Public Prosecutor
High Court, Madras.

+lcc to Mr.K.Kesavan, Advocate, S.R.No.37843

HCP No.435/2017

KJI(CO)
CS/12/06/17



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