

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.51 of 2017

Geetha

..Petitioner

versus

1. The Secretary to Government,
Home, Prohibition & Excise
Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2. The Commissioner of Police/
Detaining Authority,
Coimbatore City,
Coimbatore District.

..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, relating to the petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 02.01.2017 on the file of the 2nd respondent herein made in proceedings Memo C.No. 02/G/IS/2017, quash the same as illegal and consequently, direct the respondents herein to produce the petitioner's husband namely, R.Sathishkumar, S/o. Rajan, aged 39 years, before this Hon'ble High Court and set him at liberty from detention, now the petitioner's husband detained at Central Prison, Coimbatore.

For Petitioner :: Mr.W.C. Camyles Gandhi

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 R. Sathishkumar, S/o Rajan, has come up with this habeas corpus petition, challenging the detention order passed by the 2nd respondent, vide proceedings in Memo C.No. 02/G/IS/2017 dated 02.01.2017.

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 though the bail application in C.M.P. No. 6034/2016 filed on behalf of the detenu before the Court of Judicial Magistrate No.VI, Coimbatore, in the ground case, in Cr.No. 1157/2016 on the file of E-2, Peelamedu Police Station, Coimbatore was dismissed on 26.12.2016, the detaining authority has stated that steps are being taken by the relatives of the detenu to file another 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.1157/2016.

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.1157/2016 on the file of E-2, Peelamedu Police Station, Coimbatore. 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 02.01.2017, 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(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

- 1) The Secretary to Government,
Home, Prohibition & Excise
Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Commissioner of Police/
Detaining Authority,
Coimbatore City,
Coimbatore District.
3. The Superintendent Central Prison
Coimbatore
4. The Joint Secretary to Government
Public Law and Order Fort St. George
Chennai-9
5. The Public Prosecutor,
High Court, Chennai.

H.C.P.No. 51 of 2017

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