

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.83 of 2017

Anand, M/A 24 years,
S/o Ganesan

...Petitioner/Detenu

Vs

1.State of 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.

....Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the records pertaining to the order of detention passed in No.1143/BCDFGISSV/2016 dated 4.11.2016 passed by the 2nd respondent and set aside the same and directing the respondents to produce the petitioner by name Anand, Son of Ganesan, aged about 24 years before this Court now confined in Central Prison, Puzhal, Chennai set him at Liberty.

For Petitioner :Mr.K.Thenrajan

For respondent :Mr.V.M.R. Rajentren, APP

ORDER

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

The petitioner/detenu has come up with this habeas corpus petition, challenging the detention order passed against by the second respondent, vide proceedings No. 1143/BCDFGISSSV/2016, dated 04.11.2016.

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 there was no bail application pending in Crime Nos.1053/2016 and 1054/2016, the detaining authority has stated that the relatives of the detenu were taking steps to file bail application, 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 Nos.1053/2016 and 1054/2016.

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 Nos.1053/2016 and 1054/2016 on the file of K-10, Koyambedu 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 04.11.2016, passed by the second 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

To

1.State of 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 Public Prosecutor,
High Court, Chennai.

4.The Superintendent,
Central Prison, Puzhal, Chennai.
(In duplicate for Communication to Detenue)

5.The Joint Secretary to Government,
Public (L&O), Fort Saint George,
Chennai-9.

H.C.P.No.83 of 2017

sj[col
srg 23/06/2017



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