

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.03.2017

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THE HONOURABLE MR. JUSTICE S.NAGAMUTHU
and
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

H.C.P No.1723 of 2016

R. Murugan,

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...Petitioner

Vs

1. The Commissioner of Police,
Commissioner of Police,
Chennai.

2. The Secretary,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St. George, Chennai-600 009

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a WRIT OF HABEAS CORPUS or any other appropriate Writ, Order or Direction particularly in the nature of Writ calling for the records of the 1st respondent herein in his proceedings Memo No.670/BCDFGISSSV/2016 dated 11-07-2016 and set aside the same and further direct the respondents herein to produce the detenu Sambar @ Prakash son of Murugan now confined in Central Prison, Puzhal, Chennai before the Hon'ble High Court and set him liberty.

For Petitioner : Mr.S. Prabhu

For respondents : Mr.V.M.R. Rajendran
Addl. Public Prosecutor

ORDER

(Order of the Court was delivered by **S.NAGAMUTHU,J.,**)

The petitioner, who is the mother of the detenu Sambar @ Prakash has come up with this habeas corpus petition, challenging the detention order passed against detenu Sambar @ Prakash by the first respondent, vide proceedings Memo No.670/BCDFGISSSV/2016 dated 11-07-2016

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.187/2016 and 418/2016, 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.187/2016 and 418/2016.

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 Cr.Nos.187/2016 and 418/2016 on the file of JJ Nagar 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 11.07.2016 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.

(S.N.J.,) (A.S.M.J.,)
08-03-2017

Index : Yes/no
Internet : Yes/no

sr

To

1. The Commissioner of Police,
Commissioner of Police,
Chennai.
2. The Secretary,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St. George, Chennai-600 009.
3. The Public Prosecutor, High Court, Chennai.

S.NAGAMUTHU,J.
And
ANITA SUMANTH,J.,

sr

Order in
H.C.P.No.1723 of 2016

08-03-2017