

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.03.2017

CORAM

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

H.C.P No.1734 of 2016

Rasaiya

.. petitioner

vs

1.The State of Tamil Nadu,
Rep. By its Secretary to Govt. Home,
Prohibition and Excise Department,
Chennai - 600 009.

2.The Commissioner of Police,
Vepery,
Chennai - 600 007.

...Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records relating to the detainee's detention order passed by the second respondent in his order No.707/BCDFGISSSV/2016 dated 15.07.2016 approved by the 1st respondent and set aside the same and produce the detainee Rasaiya, male, aged 25 years, S/o. Elumalai, now detained in Central Prison, Puzhal, Chennai before this court and set him at liberty.

For Petitioner : Mr.B. Veeraragavan,

For Respondent : Mr.V.M.R. Rajentren,
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.NAGAMUTHU,J.]

This Habeas Corpus Petition has been filed, by the detenu, namely, Rasaiya, to issue a Writ of Habeas Corpus, to call for the records connected with the detention order of the second respondent, in Memo No.707/BCDFGISSSV/2016 dated 15.07.2016 and set aside the same and direct the respondents to produce the body and person of the petitioner, by name Rasaiya,

son of Elumalai, aged about 25 years, detained in Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

2. We have heard the learned counsel appearing on behalf of the petitioner and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

3. Though, several grounds have been raised in this Habeas Corpus Petition, Mr.B.Veeraragavan, the learned counsel appearing on behalf of the petitioner, had assailed the impugned detention order mainly on the ground that the detaining authority had stated, in Paragraph No.4 of the order of detention, that no bail application has been moved on behalf of the detenu, in P-1 Pulianthope Police Station Crime Nos.681 of 2016 and 684 of 2016. However, in the detention order, it had been stated that the relatives of the detenu are taking action to take him out on bail, in P-1 Pulianthope Police Station Crime Nos.681 of 2016 and 684 of 2016, by filing bail applications before the appropriate Court.

4. It is noted from the records available that, no statements had been recorded from the relatives concerned, to substantiate the claim, that they are taking steps to move bail applications, on behalf of the detenu, to take him out on bail, in the above said cases. In such circumstances, we find that there is non-application of mind on the part of the detaining authority, in passing the detention order. Therefore, we are inclined to set aside the detention order.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 15.07.2016, 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/-

Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

jbm/jer

To

1.The Secretary to Govt. Home,
The State of Tamil Nadu,
Prohibition and Excise Department,
Chennai - 600 009.

2.The Commissioner of Police,
Vepery,
Chennai - 600 007.

3.The Superintendent,Central Prison,Puzhal,Chennai.

4.The Joint Secretary to Government,
Public (Law & Order),
Fort St.George,Chennai-9.

5.The Public Prosecutor,
High Court, Chennai.

H.C.P.No.1734 of 2016

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ss(12/4/2017)



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