

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.03.2017

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

and

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

H.C.P No.1809 of 2016

Amsaveni ... Petitioner/mother of the defence
Vs

1.The Government of Tamil Nadu,
rep. by its Secretary,
Home, Prohibition and Excise (XVI) Department
Fort St.George, Chennai - 9.

2.The Commissioner of Police,
Greater Chennai Police,
Office of the Commissioner of Police,
Chennai.

Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a writ, Order or direction in the nature of a writ of Habeas Corpus, calling for the records in detention order Memo No.878/BCDFGISSSV/2016 dated 10.08.2016 on the file of the second respondent and quash the same and direct the respondents herein to produce the body of the petitioner's son Omprakash Deepak, aged about 45 years, the detenu now confined in Central Prison, Puzhal before this Court and set him at liberty.

For Petitioner : Mr.R.Vijayakumar

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

JUDGMENT

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

The petitioner, who is the mother of the detenu Omprakash Deepak has come up with this habeas corpus petition, challenging the detention order passed against detenu Omprakash Deepak, aged 45 years by the second respondent in Memo No.878/BCDFGISSSV/2016 dated 10.08.2016.

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 No.1037/2016, 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 No.1037/2016.

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.No.1037/2016 and Meenambakkam 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 10.08.2016 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

/True copy/

Sub Assistant Registrar

To

1. The Secretary,
Home, Prohibition and Excise (XVI) Department
Fort St. George, Chennai - 9.
2. The secretary to Government,
Public Law & Order department,
Secretariat, Chennai-9.
3. The Commissioner of Police,
Greater Chennai Police,
Office of the Commissioner of Police,
Chennai.
4. The Public Prosecutor,
High Court, Chennai.
- 5 The Superintendent of Central
Prison, Puzhal, Chennai.

सत्यमेव जयते

H.C.P.No.1809 of 2016

SDR 24.03.2017

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