

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.1812 of 2016

Chinnaival .. Petitioner

Vs

1.State of Tamil Nadu,
rep. by its Secretary,
Home, Prohibition and Excise Department
Fort St.George, Chennai - 9.

2.The District Magistrate and
The District Collector,
Dharmapuri District, Dharmapuri. ... 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 relating to the detention order made in S.C.No.10/2016 dated 27.07.2016 passed by the second respondent and quash the same and direct the respondents to produce the detenu Chinnasamy, S/o.Krishnan, now confined in Central Prison, Salem before this Court and set him at liberty.

For Petitioner : Mr.S.Gowri Shankar
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 wife of the detenu Chinnasamy has come up with this habeas corpus petition, challenging the detention order passed against detenu Chinnasamy, aged 38 years by the second respondent in S.C.No.10/2016 dated 27.07.2016

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 No.579/2016, 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.579/2016.

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.579/2016. 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 27.07.2016 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/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cse

To

1.The Secretary,
Home, Prohibition and Excise Department
Fort St.George, Chennai - 9.

2.The District Magistrate and
The District Collector,
Dharmapuri District, Dharmapuri.

3 The Superintendent, Central Prison, Salem

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

5.The Public Prosecutor,
High Court, Chennai.

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H.C.P.No.1812 of 2016



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