

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2017

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU
and
THE HON'BLE DR.JUSTICE ANITA SUMANTH
H.C.P.No.1829 of 2016

Bhavani

.. Petitioner

versus

1. State of Tamilnadu,
Rep. by the Secretary,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
2. The Commissioner of Police,
The Commissioner Office,
Vepery, Chennai - 600 007. .. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to call for the records of detention order made in Memo No.794/BCDFGISSSV/2016 dated 29.07.2016 passed by the Commissioner of Police, Greater Chennai, Vepery, Chennai, the second respondent set aside the same and direct the second respondent to produce the petitioner's husband Mohan @ Eli Mohan, son of Chittibabu, aged about 23 years the detenu, now confined in Central Prison, Puzhal, Chennai before this Court and set the petitioner's husband Mohan @ Eli Mohan son of Chittababu, aged about 23 years, the detenu herein at liberty.

For Petitioner : Mr.R.Krishnan

For Respondents : Mr.V.M.R.Rajentren

Additional Public Prosecutor

O R D E R

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

This Habeas Corpus Petition has been filed, by the wife of the detenu, namely, Mohan @ Eli Mohan, to issue a Writ of Habeas Corpus, to call for the records connected with the detention order of the second respondent, in Memo No.794/BCDFGISSSV/2016 dated 29.07.2016 and set aside the same

and direct the respondents to produce the body and person of the petitioner's husband, by name Mohan @ Eli Mohan, son of Chittibabu, aged about 23 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.R.Krishnan, 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 J5 Shashri Nagar Police Station Crime No.1029 of 2016 and J2 Adyar Police Station Crime No.117 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 J5 Shashri Nagar Police Station Crime No.1029 of 2016 and J2 Adyar Police Station Crime No.117 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 29.07.2016, 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.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

sri

To

1. The Secretary,,
Government of Tamilnadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
2. The Commissioner of Police,
The Commissioner Office,
Vepery, Chennai - 600 007.
3. The Additional Public Prosecutor
High Court, Madras.
4. The Superintendent, Central Prison
Puzhal, Chennai
5. The Joint Secretary to Government
Public Law & Order
Fort.St. George
Chennai 9

H.C.P.No.1829 of 2016

SVI (CO)
sp/7/4



WEB COPY