

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.04.2017

CORAM

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

H.C.P No.1848 of 2016

Tmt.Lalitha ...Petitioner
Vs

1. The District Magistrate @ District Collector,
Dharmapuri District,
Dharmapuri
2. Government of Tamil Nadu
rep by its Secretary,
Prohibition & Excise Department,
Fort St. George,
Chennai - 9 ... 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 to call for the records relating to the proceedings of the 1st respondent in S.C.No.14 of 2016 dated 18.08.2016/Goonda against petitioner's husband Thiru.Srinivasan, S/o Krishnan, Hindu, aged about 29 years and quash the same and consequently direct their respondents herein to produce the detenu who has now been detained under Act 14 of 1982 in Central Prison, Salem before this Court.

For Petitioner : Mr.J. Bharathiraja

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

ORDER

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

The petitioner, who is the wife of the detenu-Srinivasan, has come up with this habeas corpus petition, challenging the detention order passed against Srinivasan by the first respondent, vide proceedings No. S.C.No.14 of 2016 dated 18.08.2016

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.104 of 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.104 of 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 Crime No.104 of 2016, on the file of Krishnapuram 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 18.08.2016, 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.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar

sr

To

1. The Secretary,
Government of Tamil Nadu,
Prohibition & Excise Department,
Fort St. George,
Chennai - 9
 2. The District Magistrate @ District Collector,
Dharmapuri District,
Dharmapuri
 3. The Superintendent, Central Prison,
Salem.
 4. The Joint Secretary to Government,
Public (Law & Order),
Fort Saint George, Chennai.
 5. The Public Prosecutor, High Court, Chennai.
- +1cc to Mr. J. Bharathiraja, Advocate sr.24544

H.C.P.No.1848 of 2016

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ss (8/5/2017)