

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.03.2017

CORAM

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

H.C.P No.1868 of 2016

Vimala

...Petitioner

Vs

1. State of Tamil Nadu rep by
its Secretary to Government, Home,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009

2. The Commissioner of Polcie,
Greater Chennai Police,
Vepery, Chennai – 600 007

.. 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 entire records, relating to petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order dated 08.08.2016 on the file of the second respondent herein made in proceedings No.850/BCDFGISSSV/2016 and quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband namely Maharajan S/o Nayenar, aged 35 years before this Court and set the petitioner's husband at liberty from detention, now petitioner's husband detained at Central Prison-II, Puzhal, Chennai.

For Petitioner : Mr. C.C. Chellappan
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 Maharajan has come up with this habeas corpus petition, challenging the detention order passed against Maharajan by the second respondent, vide proceedings No. 850/BCDFGISSSV/2016 dated 08.08.2016.

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 Nos.72/2016, 162/2016 and 708/2016, 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 Nos.72/2016, 162/2016 and 708/2016.

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 Nos.72/2016, 162/2016 and 708/2016 on the file of K-8 Arumbakkam 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 08.08.2016, 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.

(S.N.J.,) (A.S.M.J.,)
13-03-2017

Speaking/non speaking

Index : Yes/no
Internet : Yes/no

sr

To

1. State Rep. By
The Secretary to Government, Home,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009
2. The District Collector,
And District Magistrate,
Namakkal District,
Namakkal.
3. The Public Prosecutor, High Court, Chennai.

S.NAGAMUTHU,J.
And
ANITA SUMANTH,J.,

sr

Order in
H.C.P.No.1868 of 2016

13-03-2017

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