

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2017

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU
and
THE HON'BLE DR.JUSTICE ANITA SUMANTH

H.C.P.No.1957 of 2016

Rahamath

.. Petitioner

versus

1.State of Tamil Nadu,
Rep.by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai Police,
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 entire records, relating to petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 26.07.2016 on the file of the second respondent herein made in proceedings No.784/BCDFGISSSV/2016 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's son namely Salman son of Abdul Raghman aged 22 years before this Court and set the petitioner's son at liberty from detention, now petitioner's son detained at Central Prison-II, Puzhal, Chennai - 600 066.

For Petitioner : Mr.C.C.Chellappan

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

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 mother of the detenu, namely, Salman, to issue a Writ of Habeas Corpus, to call for the entire records connected with the detention order of the second respondent, in Memo 784/BCDFGISSSV/2016, dated 26.07.2016 and quash the same and direct the respondents to produce the body and person of the petitioner's son, by name Salman, son of Abdul Raghman, aged

about 22 years, detained in Central Prison-II, Puzhal, Chennai - 600 066, 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.C.C.Chellappan, 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 T-3 Korattur Police Station Crime No.841 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 T-3 Korattur Police Station Crime No.841 of 2016, by filing bail application 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 application, 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 26.07.2016, passed by the second respondent is quashed. The detenu is directed to be released, forthwith, unless, his presence is required in connection with any other case.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

1.The Secretary,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

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

3.The Additional Public Prosecutor
High Court, Madras.

4.The Superintendent,
Central Prison II, Puzhal, Chennai.

5.The Joint secretary to Govt.,
Public (L&O) Fort St.George, Chennai.

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