

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.1958 of 2016

B.Thilaga

... Petitioner

versus

1. The Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai, Chennai.
3. The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.
4. The State Rep. by Inspector of Police,
S-12, Chitlapakkam Police Station,
Chennai.
5. The State Rep. by Inspector of Police,
S-15, Selayur Police Station,
Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to call for the records vide order BCDFGISSSV.No.827/2016 dated 03.08.2016 on the file of the second respondent and set aside the same and to produce the petitioner's son Sarath Kumar aged about 23 years now confined at Central Prison II, Puzhal, Chennai and set him liberty forthwith.

For Petitioner : Mr.G.Kaviyarasu

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, Sarath Kumar, to issue a Writ of Habeas Corpus, to call for the records connected with the detention order of the second respondent, in Memo No.827/BCDFGISSSV/2016, dated 03.08.2016 and set aside the same and direct the respondents to produce the body and person of the petitioner's son, by name Sarath Kumar, son of Boopalan, aged about 23 years, detained in Central Prison II, 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.G.Kaviyarasu, 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 S-15 Selaiyur Police Station Crime No.1084 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 S-15 Selaiyur Police Station Crime No.1084 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 03.08.2016, 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.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

sri

To

1. The Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Chennai - 600 009.
2. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
3. The Commissioner of Police,
Greater Chennai, Chennai.
4. The Superintendent of Prison,
Central Prison, Puzhal, Chennai.
5. The Inspector of Police,
S-12, Chitlapakkam Police Station,
Chennai.
6. The Inspector of Police,
S-15, Selayur Police Station,
Chennai.
7. The Additional Public Prosecutor
High Court, Madras.

+1cc to Mr.M.Aswin, Advocate, S.R.No.16508

H.C.P.No.1958 of 2016

LRS (CO)
CA(04/04/2017)

सत्यमेव जयते

WEB COPY