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.2202 of 2016

Avinashiappan ...Petitioner

Vs

1. State of Tamil Nadu,
Rep. by the Secretary,
Home, Prohibition and
Excise Department,
Fort St.George, Chennai - 600 009

2. The District Magistrate and
District Collector,
Tiruppur District,
Tiruppur ....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 in connection with the order of detention passed by the second respondent dated 30.08.2016 in Cr. M.P. No.24/Goonda/2016 against the petitioner's son by name Karthi, male, aged 23, S/o.Avinashiappan, who is confined at Central Prison, Coimbatore and to set aside the same and consequently direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : M/S.V. Murugesan
For respondents: Mr.V.M.R. Rajentren,
Addl. Public Prosecutor

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

The petitioner has come up with this Habeas Corpus Petition, challenging the detention order passed against his son Karthi, S/o.Avinashiappan by the second respondent, vide proceedings No. Cr. M.P.No.24/Goonda/2016 dated 30.08.2016 .

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.

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3. Though, several grounds were raised in the petition, the learned counsel appearing for the petitioner would mainly focus on the ground that no bail applications have been filed in Crime No.259/2016 detaining authority has stated that the relatives of the detenu were taking steps to file bail application in the above case, 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. 259/2016.

5. We have considered the above submissions. Admittedly, as on the date of passing of the detention order, no bail application has been filed by the detenu seeking bail in Crime No. 259/2016 on the file of Cheyur 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 30.08.2016, 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 VIII)

//True Copy//

Sub Assistant Registrar

jbm/lbm

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To

1. The Secretary,
   State of Tamil Nadu,
   Home, Prohibition and Excise Department,
   Fort St.George, Chennai - 600 009

2. The District Magistrate and District Collector,
   Tiruppur District,
   Tiruppur.

3. The Superintendent, Central Prison, Coimbatore.

4. The Joint Secretary to Government,
   Public(Law & Order),
   Fort Saint George, Chennai - 9.

5. The Public Prosecutor, High Court, Chennai.

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