

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2017

CORAM

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

H.C.P.No.2301/2016

Mrs.P.Uma Maheswari

..... Petitioner

Vs

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

2.The Commissioner of Police,  
Greater Chennai,  
Chennai

..... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to call for the records of the Commissioner of Police, Greater Chennai, the second respondent pertaining to the order made in Cr.M.P.No.797/BCDFGISSSV/2016/GOONDA, dated 29.07.2016 and set aside the same and direct the respondents to produce the detenu now confined in Central Prison, Puzhal, Chennai, before this Court and set the detenu Thiru Pandian, S/o.Nagendran, aged about 30 years at liberty forthwith.

For Petitioner : Mr.K.Anees Fathima

For Respondents : Mr.V.M.R.Rajentren  
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.NAGAMUTHU, J.]

The petitioner, who is the wife of the detenu-Pandian, has come up with this habeas corpus petition, challenging the detention order passed against Mr.Pandian by the second respondent, vide his proceedings in Memo No.797/BCDFGISSSV/2016, dated 29.07.2016.

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 were no bail applications either pending in Crime Nos.432 of 2016 and 542 of 2016, the detaining authority has stated that the relatives of the detenu were taking steps to file bail applications, 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 were no materials 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 applications seeking bail in connection with the cases in Crime Nos.432 of 2016 and 542 of 2016.

5. We have considered the above submissions. Admittedly, as on the date of passing of the detention order, there were no applications filed by the detenu seeking bail in Crime Nos.432 of 2016 and 542 of 201, on the file of D-1 Triplicane Police Station. Though it is alleged that his relatives were taking steps to file applications 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 of the detenu were taking steps to file applications seeking bail. Full details as to who are those relatives, who were taking steps to file bail applications also have not been mentioned. Thus, in our considered view, without making proper application of mind relating to the facts, the detaining authority has passed the detention order. Therefore, we are inclined to set aside the same.

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6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 29.07.2016, 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

//True Copy//

Sub Assistant Registrar

msk

To

1. The Secretary to Government,  
Home Prohibition and Excise Department,  
Fort St. George, Chennai-600 009.
2. The Commissioner of Police,  
Greater Chennai,  
Chennai.
3. The Superintendent of Police,  
Central Prison, Puzhal,  
Chennai.
4. The Joint Secretary to Government,  
Public (Law and Order)  
Fort St. George, Chennai-9.
5. The Additional Public Prosecutor,  
High Court, Madras.

+1cc to M/s. Anees Fathima, Advocate, S.R.No.19998

GJII(CO)  
RS(24/04/2017)

H.C.P.No.2301/2016