

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 17.05.2017

Coram:-

The Honourable Mr. Justice M.M.SUNDRESH
and
The Honourable Mr. Justice R.SUBRAMANIAN

Habeas Corpus Petition No.2316 of 2016

Vasantha

... Petitioner

Vs.

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

2.The Commissioner of Police,

Vepery, Chennai-600 007.

... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records relating to the detenu's detention order passed by the second respondent in his order No.1036/BCDFGISSSV/2016 dated 06.09.2016 approved by the first respondent and set aside the same and produce the detenu Sakthivel, male, aged 24 years, S/o Pachaiappan, now detained in Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.C.C.Chellappan

For Respondents : Mr.E.Raja,
Additional Public Prosecutor

O R D E R

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner is the mother of the detenu by name Sakthivel, who has been detained by the 2nd respondent under the provisions of the Tamil Nadu Act 14 of 1982 branding him as a 'Drug Offender' by an impugned Detention Order dated 06.09.2016. Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.

2. We have heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents and we have also perused the records carefully.

3. The learned counsel appearing for the petitioner submits that though in the third line of paragraph 4 of the grounds of detention, the detaining authority stated that the detenu has not moved any bail application in H8 Thiruvottiyur Police Station Cr.No.787/2016, in the ninth line of the said paragraph it has been mentioned that there is a real possibility of his coming out on bail in H8 Thiruvottiyur Police Station Crime No.787 of 2016 by filing bail application before the appropriate Court, which shows that there is non application of mind. It is also submitted that the reasons assigned are vague since the names of the relatives of the detenu have not been specified.

4. The learned Additional Public Prosecutor seeks time to file counter affidavit.

5. The detention order was passed on 06.09.2016. The averments made in the affidavit along with the grounds are not denied or disputed. The detention order itself says about the non filing of the bail application. No particulars of the relatives of the detenu, who are seeking to file bail application, are indicated. In such circumstance, the impugned detention order is liable to be quashed.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in BCDFGISSSV No.1036 of 2016 dated 06.09.2016 passed by the second respondent is quashed. The detenu, viz., Sakthivel, son of Pachaiappan, is directed to be released forthwith, unless his presence is required in connection with any other case.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

raa

To

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

2. The Commissioner of Police, Vepery, Chennai-600 007.
3. The Superintendent, Central Prison, Puzhal, Chennai.
(In duplicate for communication to the petitioner)
4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.
5. The Additional Public Prosecutor, High Court, Madras.

HCP. No.2316 of 2016

CA (CO)
NR 20/07/2017



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