

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.04.2017

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU
and
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

H.C.P No.2356 of 2016

Sumithra

...Petitioner

Vs

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

2. District Collector and
District Magistrate,
Kancheepuram District.

....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 09.08.2016 in BCDFGISSSV No.50/2016 against the petitioner's husband, detenu Selvam @ Selvaraj, male, aged 29, S/o Jayaraman, who is confined at Central Prison, Puzhal 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 : Mr.J.Franklin

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

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 Selvam @ Selvaraj, by the second respondent, vide proceedings BCDFGISSSV No.50/2016 dated 09.08.2016

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.

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 was no bail application pending in Crime No.595/2016 the detaining authority has stated that, 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 was real possibility of the detenu coming out on bail, in connection with the case in Crime No.595/2016 on 15.07.2016.

5. We have considered the above submissions. Admittedly, as on the date of passing of the detention order, there was no application filed by the detenu seeking bail in Crime No.595/2016 on the file of Maraimalai Nagar Police Station. Though it is alleged that there was real possibility of the detenu coming out on bail, there were no materials available before the detaining authority, except the report of the Inspector of Police. 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 09.08.2016, 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/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

jer/jbm

To

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

2. District Collector and District Magistrate,
Kancheepuram District.

3.The Superintendent,Central Prison,
Puzhal,Chennai

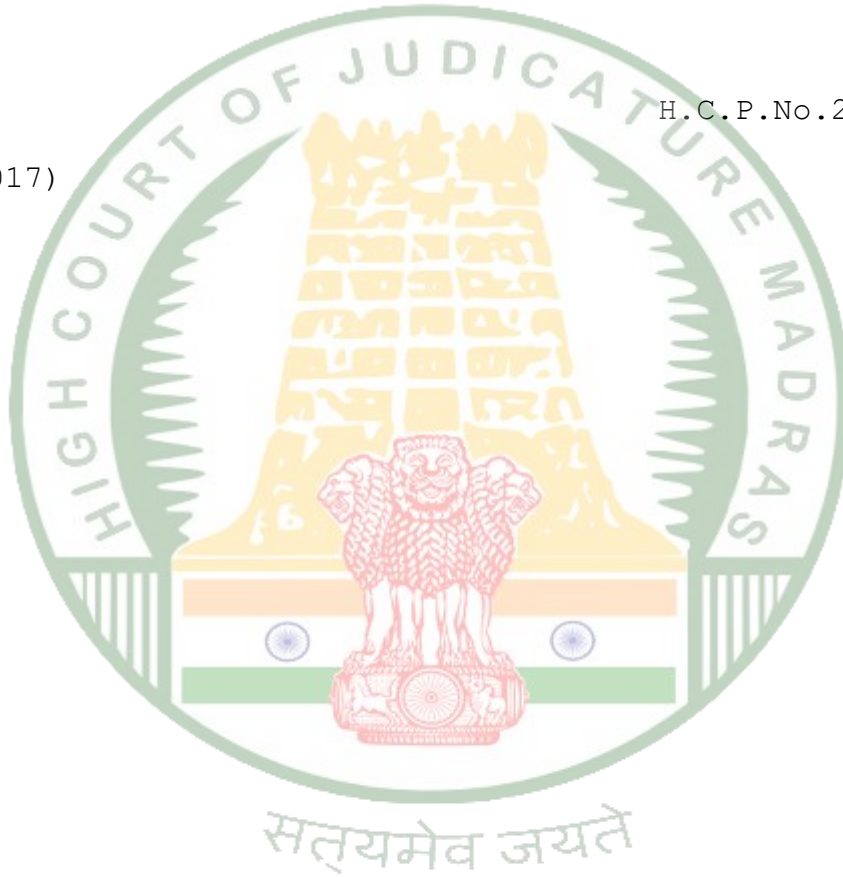
4.The Joint Secretary to Government,
Public (Law & Order),
Fort St.George,Chennai-9.

5. The Public Prosecutor, High Court, Chennai.

+lcc to Mr.J.Franklin,Advocate sr.24767

sv(co)
ss(11/5/2017)

H.C.P.No.2356 of 2016



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