

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.05.2017

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN
and
THE HONOURABLE MR.JUSTICE S.BASKARAN

H.C.P No.2385 OF 2016

Muthulatchumi, F/a 35 Yrs,
W/o ShanmugaSundaram.

...Petitioner

Vs

1.The State of Tamil Nadu,
Rep.by its Secretary to Government,
Prohibition and Excise Department, (Home),
Chennai-9.

2.The Commissioner of Police,
Greater Chennai,
Veperry,
Chennai 600 007.

...Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the records relating to the detenue's detention order passed by the 2nd respondent in Memo No.1081/BCDFGISSSV/2016 dated 28.09.2016 and set aside the same and produce the detenu Ragupathi, Son of Mookandi Nadar, male, aged about 26 years, now detained in Central Prison, Puzhal before this Court and set him at Liberty, forthwith.

For Petitioner: Mr.Saravanan

For respondents: Mr.V.M.R. Rajentren,
Addl. Public Prosecutor

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ORDER

(Order of the Court was made by M.V.MURALIDARAN,)

The petitioner, who is the elder sister of the detenu Ragupathy, has come up with this Habeas Corpus Petition, challenging the detention order passed against Ragupathy by the second respondent, vide, Memo No.1081/BCDFGISSSV/2016, dated 28.09.2016.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents 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 he has not moved any bail application in Crime No.1115/2016, the detaining authority has stated that the relatives of the detenu were taking steps to file bail application, 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 No.1115/2016.

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.1115/2016 on the file of J-10, Semmanchery 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 28.09.2016, 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 V)

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Sub Assistant Registrar

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To

1. The Secretary to Government
The State of Tamil Nadu,
Prohibition and Excise Department, (Home),
Chennai-9.
2. The Commissioner of Police,
Greater Chennai,
Veperry,
Chennai 600 007.
3. The Superintendent
Central Prison Puzhal
Chennai
4. The Joint Secretary to Government
Public Law and Order
Fort St. George Chennai-9
5. The Public Prosecutor, High Court,
Chennai.

H.C.P.No.2385 of 2016

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