

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.04.2017

CORAM

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

H.C.P No.2401 of 2016

Muthu

...Petitioner

Vs

1. The State of Tamil Nadu,
rep by the Secretary to Government,
Home Prohibition and Excise Department,
Fort St. George,
Chennai - 9

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

.. 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 in his proceedings C3/D.O.No.65/2016, dated 11.10.2016 against petitioner's son Thiru.Thirumoorthy, S/o Singaram, aged about 25 years, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court.

For Petitioner : Mr. I. Paul Noble Devakumar

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

ORDER

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

The petitioner is the mother of one Thirumoorthy, aged about 25 years, S/o Singaram, who has been detained under Act 14 of 1982, as per the Order of the second respondent made in C3/D.O.No.65/2016, dated 11.10.2016. Challenging the said order, the petitioner has come up with this habeas corpus petition.

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 many grounds have been raised in the petition, the learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention. The learned counsel would point out that even according to the detention order, the detenu involved in three criminal cases and in each case, he was remanded to judicial custody, but in the order, the detaining authority has stated that there was real possibility of his coming out on bail only in one case and there is no reference about the other two cases. Thus, the detaining authority has not even aware of as to whether there is real possibility of coming out of bail on those cases. This, according to the learned counsel, it is the non-application of mind on the part of the detaining authority in passing the order of detention.

4. We are fully agree with the said submissions. When there was real possibility of the detenu coming out on bail only in one case, we are unable to understand as to how the detaining authority came to the conclusion that he would be released in two other cases also and if the detenu is released, he would indulge in further activities which will be prejudicial to the maintenance of public order and public health.

5. Therefore, 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 11.10.2016, 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

sr

To

1. The Secretary to Government,
Government of Tamil Nadu,
Home Prohibition and Excise Department,
Fort St. George,
Chennai - 9

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

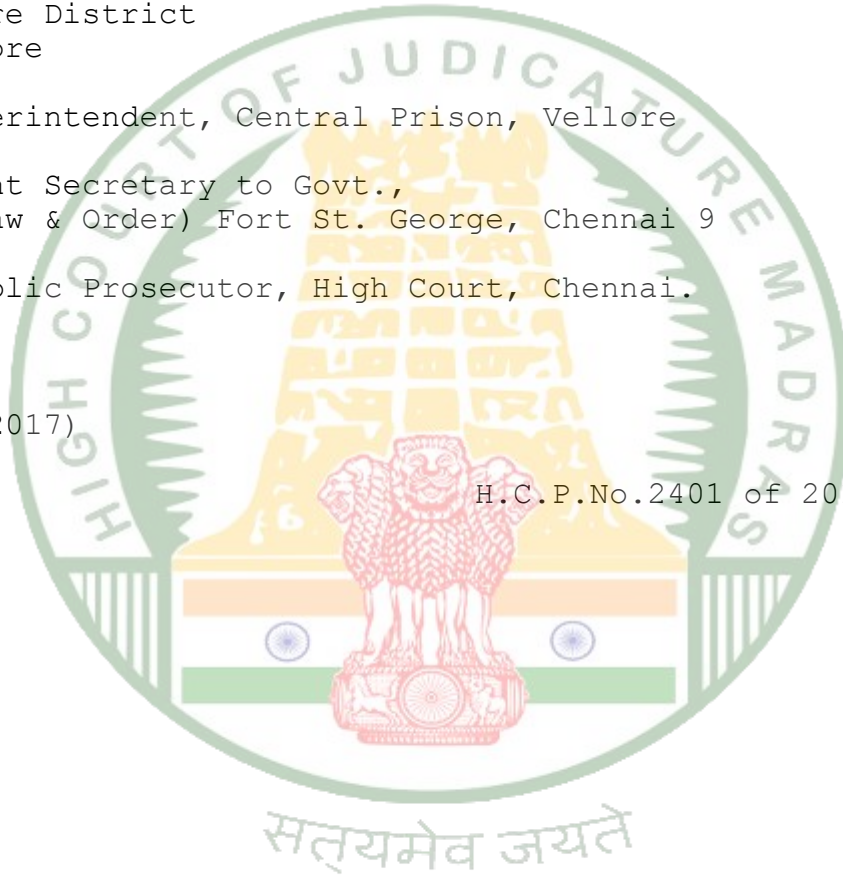
3 The Superintendent, Central Prison, Vellore

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

5. The Public Prosecutor, High Court, Chennai.

rv(CO)
md(20/04/2017)

H.C.P.No.2401 of 2016



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