

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.04.2017

CORAM

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

H.C.P No.2543 of 2016

Ganeshkumar

...Petitioner

Vs

- 1.State of Tamil Nadu,
Rep. By its Secretary,
Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
2. The District Collector and
District Magistrate,
Detaining Authority,
Coimbatore District.
3. The Inspector of Police,
Thondamuthur Circle,
Thondamuthur, Coimbatore District.Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records relating to the impugned order of detention passed by the 2nd respondent vide in Cr.M.P.No.26/G/2016/E1 dated 22.09.2016 and set aside the same and consequently direct the respondents to produce the petitioner namely Ganeshkumar, aged 29 years, now confined at Central Prison, Coimbatore before this court and set him at liberty.

For Petitioner : Mr.C.Samivel

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 detenu/Petitioner Ganeshkumar, S/o Maranna Gowder, aged about 29 years, has come up with this Habeas Corpus Petition, challenging the detention order passed against the detenu Ganeshkumar, by the second respondent, vide proceedings Cr.M.P.No.26/G/2016/E1 dated 22.09.2016.

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 bail application was filed in before the District and Sessions Court, Coimbatore in respect of Crime No.216/2016 on the file of Thondamuthur Police Station was pending, and there was no further bail application pending as on the date of passing of the detention order by the second respondent in Crime No.216/2016 and 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.216/2016.

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 Nos.216/2016 on the file of Thondamuthur 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 22.09.2016, 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/-

ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

To

1. Secretary, State of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
 2. The District Collector and
District Magistrate,
Detaining Authority,
Coimbatore District.
 3. The Inspector of Police,
Thondamuthur Circle,
Thondamuthur, Coimbatore District.
 4. The superintendent, central prison, coimbatore
 5. The joint secretary to Govt. Public (law & order)
Fort st. George chennai 9
 6. The Public Prosecutor, High Court, Chennai.
- +1 cc to MR. C. SAMIVEL Advocate SR.NO. 36416

Order in
H.C.P.No.2543 of 2016

RJ (CO)
T.R (17/05/2017)