

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.05.2017

CORAM

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

H.C.P.No.2626 of 2016

Ramalingam

.. Petitioner

Vs.

1.The Principal Secretary to Government,
Home Prohibition and Excise (XVI) Department,
Secretariat,
Chennai 600 009.

2.The Commissioner of Police,
O/o the Commissioner of Police,
Salem City.

3.The Inspector of Police,
Shevapet Police Station,
Salem District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus to call for the entire records connected with the detention order in C.M.P.No.89/GOONDA/Salem City/2016, dated 18.11.2016 on the file of the 2nd respondent and quash the same and direct the respondents to produce the body and person of the petitioner's son one named Mani @ Veera Mani @ Veera Manikandan aged about 29 years now confined at Salem Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.A.Raja Mohamed

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

ORDER

[Order of the Court was made by M.V.MURALIDARAN, J.]

The petitioner, who is the father of the detenu Mani @ Veeramani @ Veeramanikandan, has come up with this habeas corpus petition, challenging the detention order passed against Mani @

Veeramani @ Veeramanikandan, aged 29 years S/o.Ramalingam by the second respondent vide, order in C.M.P.No.89/GOONDA/Salem City/2016, dated 18.11.2016.

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.424/2016 on the file of Shevapet Police Station and Crime No.355/2016 on the file of Annadanapatty Police Station, 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 in connection with the case in Crime No.424/2016 on the file of Shevapet Police Station and Crime No.355/2016 on the file of Annadanapatty Police Station.

5. We have considered the above submissions. Admittedly, as on the date of passing of the detention order, there were no applications filed by the detenu, seeking bail in Crime No.424/2016 on the file of Shevapet Police Station and Crime No.355/2016 on the file of Annadanapatty 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 18.11.2016, 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 III)

//True Copy//

Sub Assistant Registrar

To

- 1.The Principal Secretary to Government,
Home Prohibition and Excise (XVI) Department,
Secretariat, Chennai 600 009.
- 2.The Commissioner of Police,
O/o the Commissioner of Police,
Salem City.
- 3.The Inspector of Police,
Shevapet Police Station,
Salem District.
- 4.The Superintendent central Prison,
Salem.
- 5.The Joint Secretary to Government(Public),
(Law And Order),Fort.ST.George, Chennai-9.
- 6.The Public Prosecutor, High Court, Chennai.

+1cc to Mr.Mohamed Saifulla, Advocate, S.R.No.37174

H.C.P.No.2626 of 2016

RR(CO)
GN(24/08/2017)

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