

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.05.2017

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH
and
THE HONOURABLE JUSTICE R.MAHADEVAN

H.C.P No.2658 of 2016

Sophiya

....Petitioner

Vs

1. The Government of Tamil Nadu
Rep., by its Secretary, Home,
Prohibition and Excise (XVI) Department,
Fort St. George,
Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai Police,
Office of Commissioner of Police,
Chennai.

....Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus of any other appropriate writ or direction in the nature of writ calling for the records in detention order Memo.1100/BCGFGISSV/2016 dated 14.10.2016 on the file of the 2nd respondent and quash the same, directing the respondents to produce the body of the detenu Keeraimani @ Manikandan now confined in Central Prison, Puzhal, aged 25 years before this Court and set him at liberty.

For Petitioner : M/s.J.Samiullah

For Respondents : Mr.E.Raja,
Additional Public Prosecutor

ORDER

(Order of the Court was made by M.M.Sundresh, J.,)

The petitioner herein is the wife of the detenu, who has filed this writ petition challenging the detention order dated 14.10.2016.

2.Learned counsel for the petitioner made submissions that there is non-application of mind on the part of the detaining authority inasmuch as there is no imminent possibility of the detenu coming out on bail, since the bail applications filed in the 3rd adverse case and in the ground case were dismissed on 26.09.2016 by the learned Principal District and Sessions Court, Chengalpattu in Criminal M.P.Nos.2613 of 2014 and 2614 of 2016. Reliance was made on similar cases also cannot be sustained, since after orders have been passed in similar cases only, the earlier bail applications were dismissed.

3.This Court finds considerable force in the submissions made by the learned counsel for the petitioner.

4.It appears that the similar cases relied upon, were of the year 2015, and only thereafter, the bail applications filed in the 3rd adverse case and in the ground case were dismissed. Therefore, the reason assigned that the Detenu is likely to come out on bail by placing reliance upon the similar orders passed prior to the dismissal of the bail applications, clearly indicates the non-application of mind on the part of the detaining authority.

5.In such view of the matter, we are of the opinion that the detention order is liable to be set aside.

6.Accordingly, the Habeas Corpus Petition is allowed and the detention order dated 14.10.2016 passed by the 2nd respondent is hereby set aside and the detenu is directed to be released forthcoming unless his presence is required in connection with any other case.

Sd/-
Asst.Registrar

/true copy/

सत्यमेव जयते
Sub Asst. Registrar

ap

To

1. The Secretary, Home,
Prohibition and Excise (XVI) Department,
Fort St. George, Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai Police,
Office of Commissioner of Police,
Chennai.

WEB COPY

- 3.The Public Prosecutor,
High Court of Madras.
- 4.The Superintendent, Central Prison,
Puzhal, Chennai-66.
- 5.The Joint Secretary to Government,
Public (Law & Order)
Fort St.George, Chennai-9.

H.C.P.No.2658 of 2016

PA (CO)
VR(08/07/2017)



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