

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.2661 of 2016

Muthukrishnan ... Petitioner

Vs.

- 1.The Principal Secretary to Government,
Home, Prohibition & Excise (XVI) Department,
Secretariat, Chennai - 600 009.
- 2.The Commissioner of Police,
O/o the Commissioner of Police,
Salem District.
- 3.The Inspector of Police,
Kodampatti 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.84/Goonda/Salem City/2016, dated 16.11.2016 on the file of 2nd respondent and quash the same and direct the respondents to produce the body and person of the petitioner's son one named Sankar @ Deenasankar aged about 33 years now confined Salem Central Prison, Chennai and set aside the same and direct the respondents to produce the detainee before the 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 Sankar @ Deenasankar aged about 33 years, S/o Muthukaruppan @ Muthukrishnan, has come up with this habeas corpus petition, challenging the detention order passed against Sankar @ Denasankar by the second respondent, vide proceedings C.M.P.No.84/Goonda/Salem City/2016, dated 16.11.2016.

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 in the ground case a bail application in Crime No.319/2016 is pending in C.M.P.No.3941/2016 before the Principal Sessions Court, Salem, 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 in the ground case in Cr.No.319/2016, the bail application is pending before the court below and the relatives of the detenu were taking steps to file bail application seeking bail in connection with the cases in Crime No.355/2016.

5. We have considered the above submissions. Admittedly, as on the date of passing of the detention order, bail application filed by the detenu seeking bail in Crime No.319/2016 on the file of Kondalampatty Police Station is pending. 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 16.11.2016 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 II)

//True Copy//

Sub Assistant Registrar

To

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

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H.C.P.No.2661 of 2016

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