

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.05.2017

CORAM

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

H.C.P No.2664 of 2016

S.Selvi

.. Petitioner

/versus/

1. State of Tamil Nadu Rep.by its
Principal Secretary,
Department of Home, Prohibition and Excise,
Secretariat, Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai, Veppery, Chennai 600 007.
3. The State rep.by The Inspector of Police,
S-1, St. Thomas Mount Police Station,
Chennai.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the records in Memo No.1168/BCDFGISSSV/2016 dated 22.11.2016 on the file of the 2nd respondent and quash the detention order as illegal and direct the respondents to produce the detenu John Jerold Marshall, son of Silverstar Stalin, aged about 23 years detenu now confined at Central Prison, Puzhal, Chennai and set him at Liberty.

For Petitioner : Mr.G.Pavendhan

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

ORDER

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

The petitioner, who is the mother of the detenu John Jerold Marshall, S/o Silverstar Stalin, has come up with this habeas corpus petition, challenging the detention order passed against the detenu John Jerold Marshall by the second respondent, vide proceedings Memo No.1168/BCDFGISSSV/2016, dated 22.11.2016.

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 even though it is stated by the Detaining Authority that in the ground case as well as in the adverse case, bail petitions filed in Crime Nos.1296/2016 and 1297/2016 by the detenu is pending, placed reliance on a similar case in Crime No.3392/2015 wherein bail was granted to an accused, but did not furnish the details of the said similar case and even the said similar case is not in respect of the co-accused of the detenu either in the ground case or in the adverse cases, but has arrived at the subjective satisfaction that there is a real possibility for the detenu to come out on bail and as such the detention order is vitiated.

4. On the said submission, this Court heard the submission of the learned Additional Public Prosecutor also.

5. We have considered the above submissions. Admittedly, the Detaining Authority placed reliance on a similar case in Crime No.3392/2015 wherein bail was granted to the accused, but he did not furnish the details of the said similar case and even the said similar case is not in respect of the co-accused of the detenu either in the ground case or in the adverse cases and further, the Detaining Authority has stated that the bail petitions of the detenu in Crime Nos.1296 and 1297 of 2016 are pending. As such, we are of the considered view that the Detaining Authority has passed the order in total non-application of mind and in the absence of any cogent materials available on record, has arrived at the subjective satisfaction to the effect that if the detenu comes out on bail, he would indulge in such further activities, which would be prejudicial to the maintenance of the public order. Therefore, we have no hesitation to hold that the impugned detention order was passed in total non-application of mind and in the absence of cogent materials available on record and in the most mechanical fashion.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 22.11.2016 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/-
Asst.Registrar (CS V)

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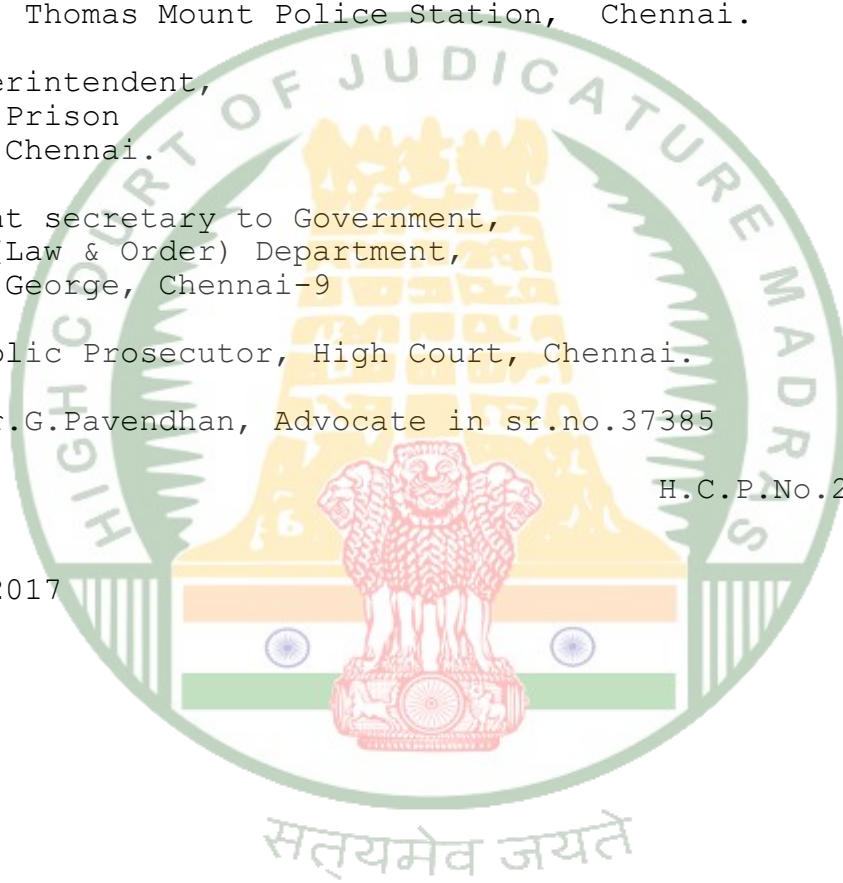
Sub Asst. Registrar

To

- 1.The Principal Secretary to Government,
Department of Home, Prohibition and Excise,
State of Tamil Nadu
Secretariat, Chennai 600 009.
 - 2.The Commissioner of Police, Greater Chennai,
Veppery, Chennai 600 007.
 - 3.The Inspector of Police,
S-1, St. Thomas Mount Police Station, Chennai.
 - 4.The Superintendent,
Central Prison
Puzhal, Chennai.
 - 5.The Joint secretary to Government,
Public (Law & Order) Department,
Fort st.George, Chennai-9
 6. The Public Prosecutor, High Court, Chennai.
- +1cc to Mr.G.Pavendhan, Advocate in sr.no.37385

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EV(CO)
NR 23/06/2017



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