

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.2702 of 2016

R.Ravichandran

.. Petitioner

Vs

1. State of Tamil Nadu,
rep. By The Secretary to Government,
Home, Prohibition and Excise Department,
For St. George, Chennai - 600 009.

2. The Commissioner of Police,
Greater Chennai Police, Vepery, Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 17.11.2016 in No.1160/BCDFGISSSV/2016 against the petitioner's son, Saravanan @ Vigneshwaran, S/o.R.Ravichandran, who is confined at Central Prison, Puzhal, Chennai and to set aside the same and consequently direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.K.Thenrajan

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

O R D E R

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

The petitioner, who is the father of the detenu Saravanan @ Vigneshwaran, has come up with this habeas corpus petition, challenging the detention order passed against his son by the second respondent, vide proceedings No.1160/BCDFGISSSV/2016 dated 17.11.2016.

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 the order granting bail in a similar case was relied upon by the detaining authority and the same was not furnished to the petitioner, which prevented him from making an effective representation before the authority concerned against the order of detention passed against his son, which vitiates the order of detention.

4. Per contra, the learned Additional Public Prosecutor would submit that, the order of detention has been passed, on cogent and sufficient materials and the same cannot be interfered with, at the instance of the petitioner. Therefore, he submits that the Habeas Corpus Petition, does not merit any consideration and the same is liable to be dismissed.

5. We have considered the above submissions. A perusal of the booklet supplied to the detenu would show that the order granting bail in a similar case relied upon by the detaining authority was not supplied to the detenu in the booklet and this has resulted in the detenu being deprived of making an effective representation. Therefore, the detention order is vitiated and liable to be quashed on this ground alone.

6. It is a trite law that, personal liberty protected under Article 21, is so sacrosanct and so high in the scale of Constitutional values that, it is the obligation of the detaining authority to show that the impugned detention meticulously accords with the procedure established by law. Preventive detention is preventive and not punitive. When ordinary law of the land is sufficient to deal with, taking recourse to the preventive detention law is illegal.

7. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 17.11.2016, 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(CCC)

//True Copy//

Sub Assistant Registrar

sra

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai Police, Vepery, Chennai.
3. The Public Prosecutor, High Court, Chennai.
4. The Superintendent, Central Prison, Puzhal,
Chennai.
5. The Joint Secretary Government Public
(Law & Order),
Fort St. George.
Chennai - 600 009

H.C.P.No.2702 of 2016

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