

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2020

CORAM :

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

HABEAS CORPUS PETITION No.60 of 2020

(Heard through Video Conferencing)

Pavithra,
W/o.Santhoshkumar ... Petitioner

-vs-

1.State of Tamil Nadu,
Rep., by The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

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

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus to call for the records pertaining to the order of detention passed in No.442/BCDFGISSSV/2019 dated 29.07.2019 passed by the second respondent and set aside the same and direct the respondents to produce the petitioner's husband by name Santhoshkumar, Son of Anandaganesan, aged about 23 years before this Court now confined in Central Prison, Puzhal, Chennai and set him at liberty.

For Petitioner : Mr.R.Karthick

For Respondents: Mrs.M.Prabhavathi,
Additional Public Prosecutor

ORDER

(Order of the Court was made by T.S.Sivagnanam, J.)

Heard Mr.R.Karthick, learned counsel for the petitioner and Mrs.M.Prabhavathi, learned Additional Public Prosecutor appearing for the respondents.

2.The petitioner is the wife of the detinue, Santhoshkumar, Son of Anandaganesan, who has been detained under Act 14 of 1982.

3.After elaborately hearing the learned counsel for the petitioner and the learned Additional Public Prosecutor, who vehemently opposed the prayer sought for by the petitioner, we find that the impugned detention order is vitiated on non-application of mind and in paragraph 4 of the order, the detaining authority states that he is aware of the detenu in remand in respect of four cases on the file of SRMC Police Station and he has not moved any bail application. However, he proceeds to refer to an order passed by the Principal District Sessions Judge, Tiruvallur, in CrI.M.P.No.3177 of 2018, which is a different case in respect of a different accused and in which, it was observed that bail has been granted. From page 252 of the booklet, in which copy of the bail order dated 06.07.2018 has been enclosed, we find that there are three petitioners in the bail application and bail has been granted only in respect of the third petitioner, who is the third accused and in respect of the 1st and 2nd petitioners (A1 and A2), the petition was dismissed as not pressed. Therefore, the detaining authority did not apply his mind and his inference that in a similar case, bail has been granted, is not correct. That apart, there is a conclusion that there is a possibility of the detenu coming only on bail, which conclusion is also on account of non-application of mind, because the detaining authority has specifically admitted that the detenu has not moved any bail application.

4.Thus, considering the detention order, which is not sustainable, we set aside same

5.Accordingly, this Habeas Corpus Petition stands allowed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

abr

To

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

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

3.The Public Prosecutor,
High Court of Madras,
Chennai.

4.The Central Prison, Puzhal, Chennai.

5.The Joint Secretary to Government,
Public (Law and order) Fort.St.George, Chennai 9.

H.C.P.No.60 of 2020

A.SK(07/08/2020)



WEB COPY