

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2015

C O R A M

THE HONOURABLE DR. JUSTICE S.TAMILVANAN
and
THE HONOURABLE MR. JUSTICE C.T.SELVAM

H.C.P.No.1013 of 2015

Ganesan

...Petitioner

Vs

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Prohibition and Excise Department, (Home)
Chennai - 9.

2. The District Collector and
District Magistrate,
Vellore District,
Vellore.

...Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Habeas Corpus to call for the records relating to the detinue's detention order passed by the second respondent detention C3.D.O.No.37/2015 dated 7.4.2015 and set aside the same and produce the detinue Haridevi, wife of Thirunavukkarasu, aged about 33 years, now detained in Women Prison, Vellore before this Court and set him at liberty forthwith.

For Petitioner : Mr.K.Gandhikumar

For Respondents : Mr.M.Maharaja
Addl. Public Prosecutor

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O R D E R

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

Challenge is made to the order of detention passed by the second respondent vide C3 D.O.No.37/2015, dated 07.04.2015, whereby the detenu/cousin of the petitioner herein, by name, Haridevi, Wife of Thirunavukkarasu, female, aged about 33 years, was ordered to be detained under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a "BOOTLEGGER".

2. The detenu came to adverse notice in the following cases:-

Sl.No.	Police Station and Crime No.	Sections of Law
1.	Dindivanam PEW Crime No.373/2014	4(1-A), 4(1-a) of TNP Act r/w 420, 468, 471 IPC
2.	Arakkonam PEW Crime No.100/2015	4(1)(a), 4(1-A) (ii) of TNP Act r/w 420, 468, 471 IPC r/w 7 of R.S.Rules, 2000

The ground case alleged against the detenu is one registered on 09.03.2015 by the Vellore PEW in Crime No.69 of 2015 for the offences under Sections 4(1)(i), 4(1)(aaa), 4(1-A) (ii) of TNP Act r/w 328 IPC. Aggrieved by the order of detention, the present petition has been filed.

3. Though the learned counsel for the petitioner has raised several grounds to assail the order of detention, he mainly focused his argument on the ground that the bail petition moved by the detenu in the ground case before the learned Principal Sessions Judge, Vellore, in CrI.M.P.No.1202 of 2015, was dismissed on 06.04.2015. However, without taking into consideration the above fact, the detaining authority, by inferring himself that there is a real possibility of the detenu coming out on bail, as in a similar case bail was granted to another accused, has passed the impugned order on 07.04.2015, i.e., on the very next day of dismissal of the bail petition. Therefore, the subjective satisfaction arrived at by

the detaining authority is erroneous.

4.The learned Additional Public Prosecutor strongly opposed this petition by stating that the detenue has committed a serious offence and it is not desirable to release the detenue, as her free movement in the society will be prejudicial to the maintenance of public order.

5.In the instant case, though it is stated that bail was granted in a similar case, we find that the bail petition of the detenue in respect of the ground case was dismissed on 06.04.2015 and the detaining authority has passed the impugned order on the very next day i.e., on 07.04.2015. Therefore, the subjective satisfaction arrived at by the detaining authority is baseless and without any supporting material, which shows the total non-application of mind on the part of the detaining authority. For the aforesaid reasons, the detention order is liable to be quashed.

6.Accordingly, the impugned detention order passed by the second respondent is quashed and the Habeas Corpus Petition is allowed. The detenue is ordered to be set at liberty forthwith, unless her custody is required in connection with any other case.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

mmi

To

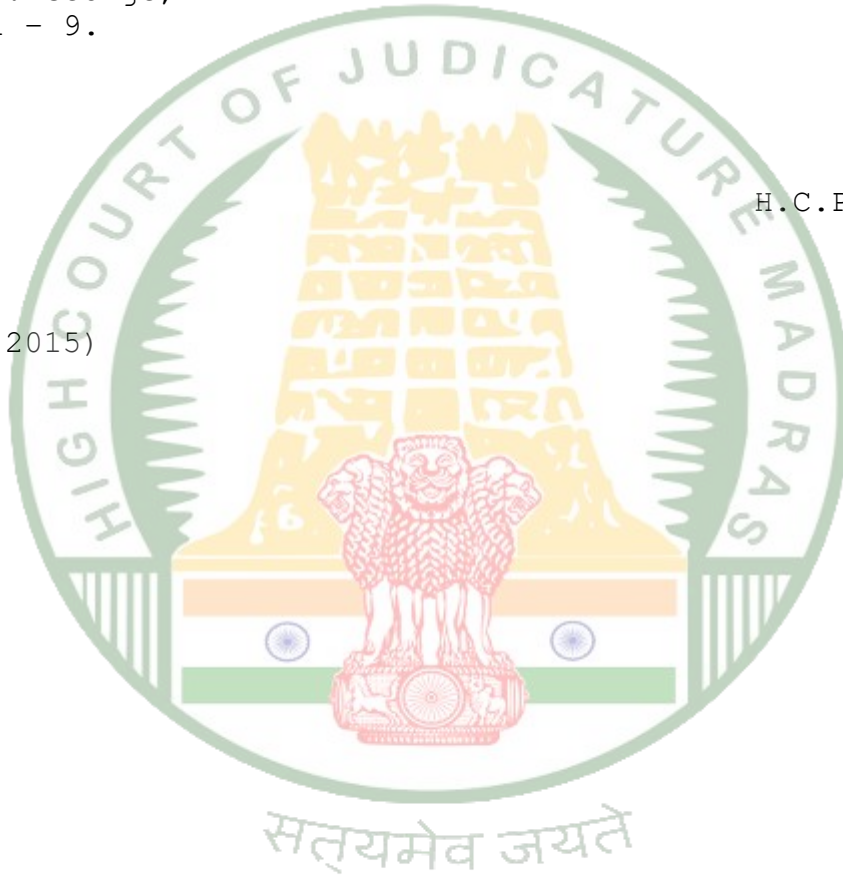
1. The Secretary,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 9.

2. The District Collector and
District Magistrate,
Vellore District, Vellore.

3. The Superintendent,
Special Prison for Women,
Vellore.
4. The Public Prosecutor,
High Court,
Chennai.
5. The Joint Secretary to Government,
Public (Law & Order)
Fort St. George,
Chennai - 9.

H.C.P.No.1013 of 2015

CA (CO)
PSI (18.08.2015)



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