

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.09.2015

CORAM:

THE HONOURABLE DR.JUSTICE S.TAMILVANAN
AND

THE HONOURABLE MR.JUSTICE C.T.SELVAM

H.C.P.No.1412 of 2015

Chinthamani

.. 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,
Namakkal District, Namakkal.

.. Respondents

Prayer:- This Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the records relating to the detenu's detention order passed by the second respondent detention C.M.P.No.32/Bootlegger/2015/M1 dated 15.05.2015 and set aside the same and produce the detenu Kona Nagaraj son of Vellaiayan aged about 49 years now detained in Central Prison, Salem before this Court and set him at liberty forthwith.

For Petitioner : MR.A.K.S.Thahir
For Respondents : Mr.M.Maharaja, APP

O R D E R

[Order of the Court was made by S.TAMILVANAN, J.]

Petitioner is the wife of the detenu, who has been branded as a "Bootlegger" under the Tamil Nadu Act 14 of 1982 and detained under orders of the second respondent passed in C.M.P.No.32/Bootlegger/2015/M1 dated 15.05.2015.

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

Sr.No.	Police Station and Crime No.	Sections of Law
1.	Namakkal PEW Crime No.205/2011	4(1)(g), 4(1)(b), 4(1)(a) Tamil Nadu Prohibition Enforcement Act, 1937
2.	Namakkal PEW Crime No.190/2015	4(1-aaa) r/w. 4(1-A) Tamil Nadu Prohibition Enforcement Act, 1937

The alleged ground case has been registered against the detenu by the Namakkal Prohibition Enforcement Wing, in Crime No.281 of 2015 for offences under sections 4(1)(i), 4(1)(aaa) & 4(1-A) Tamil Nadu Prohibition Enforcement Act 1937.

3. Amidst several grounds raised, learned counsel for petitioner submits that the detenu was in remand in the ground case [Cr.No.281/2015] registered by the Namakkal Prohibition Enforcement Wing and the bail application filed by the detenu in C.M.P.No.409/2015 before the learned Vacation Sessions Judge, Namakkal was dismissed. Another bail application filed by the detenu in Crl.O.P.No.12013/2015 before this Court is pending as on the date of passing of the detention order. But the detaining authority in order to arrive at the subjective satisfaction that the detenu would be released on bail by this Court, relied upon the similar case wherein bail was granted by the learned Principal District Sessions Judge, Namakkal in C.M.P.No.230/2015. Hence, the impugned order suffers from non-application of mind.

4. We have heard learned Additional Public Prosecutor on the above submissions and also perused the records.

5. We find that the order of detention does suffer from non application of mind and for the reasons put forth by the learned counsel for the petitioner, the order under challenge would have to fall.

Accordingly, the impugned detention order passed by the second respondent, detaining the detenu, namely, Konanagaraj, S/o.Vellaiyan, made in C.M.P.No.32/Bootlegger/2015/M1 dated 15.05.2015, is quashed and the Habeas Corpus Petition is allowed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

CSE

<https://hcservices.ecourts.gov.in/hcservices/>

To

1.The Secretary to Government,
Prohibition and Excise Department (Home),
Chennai - 9.

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

3.The Superintendent of Central Prison,
Salem.

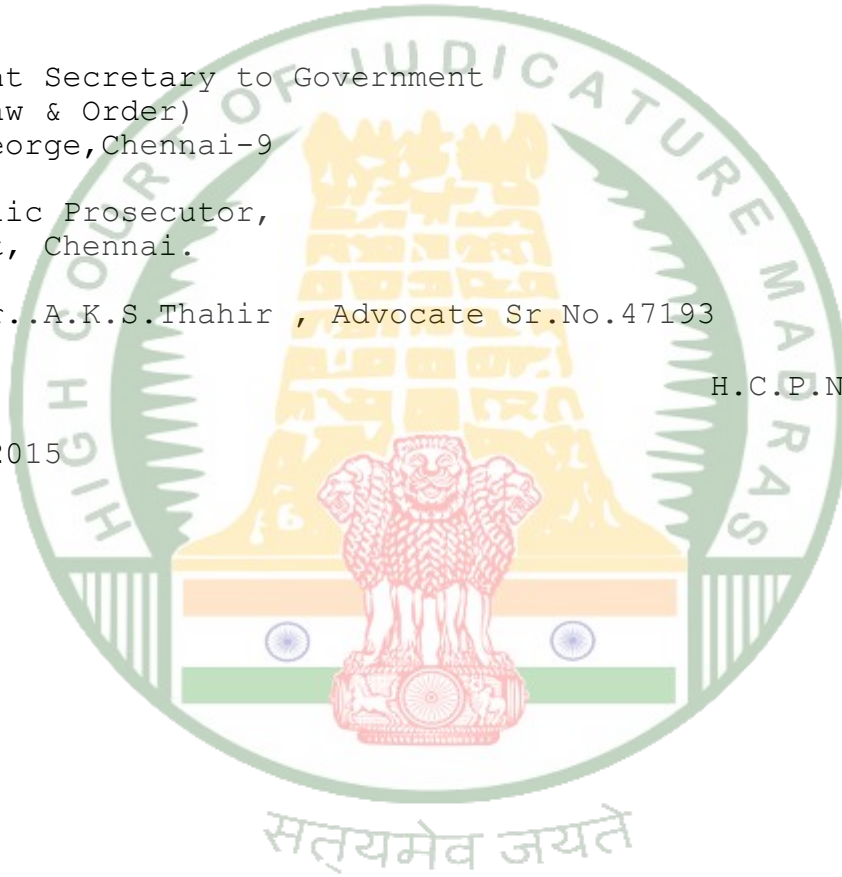
4.The Joint Secretary to Government
Public (Law & Order)
Fort St.George,Chennai-9

5.The Public Prosecutor,
High Court, Chennai.

1 cc to Mr..A.K.S.Thahir , Advocate Sr.No.47193

H.C.P.No.1412 of 2015

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