

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2015

C O R A M

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

Habeas Corpus Petition No.1548 of 2015

Jamuna

... Petitioner

-vs-

1.The District Collector and District Magistrate,
Kancheepuram District,
Kancheepuram.

2.The Secretary,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Chief Secretariat, Fort St. George,
Chennai - 600 009.

3.The Superintendent,
Central Prison,
Puzhal, Chennai.

... Respondents

Writ petition under Article 226 of the Constitution of India filed praying for issuance of a writ of Habeas Corpus calling for the records pertaining to the order of detention passed by the first respondent herein and made in No.48/BCDFGISSSV/2015 dated 26.05.2015 and to set aside the same and directing the third respondent to produce the body of the detainee Thiru.Vincent S/o.Joshwa, now confined in Central Prison, Puzhal, Chennai before this Court and thereby setting him at liberty.

For Petitioner : Mr.T.S.Srinivasan

For Respondents : Mr.M.Maharaja,
Additional Public Prosecutor

O R D E R

(The order of the Court was made by S.TAMILVANAN, J.)

Petitioner is the wife of the detenu, who has been branded as a "Drug Offender" under the provisions of Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) and detained under order of the second respondent passed in BCDFGISSSV No.48/2015 dated 26.05.2015.

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

Sl.No.	Police Station and Crime No.	Sections of Law
1.	Narcotic Intelligence Bureau Crime Investigation Department, Kancheepuram Unit, Crime No.35 of 2014	8(c) r/w. 20(b)(ii)(A) Narcotic Drugs and Psychotropic Substance Act 1985
2.	Narcotic Intelligence Bureau Crime Investigation Department, Kancheepuram Unit, Crime No.61 of 2015	20(b)(ii)(B) Narcotic Drugs and Psychotropic Substance Act 1985

The alleged ground case has been registered against the detenu by the Narcotic Intelligence Bureau Crime Investigation Department, Kancheepuram Unit in Crime No.20 of 2015 for offence under Section 8(c) r/w. 20(b)(ii)(B) Narcotic Drugs and Psychotropic Substance Act. Aggrieved by the order of detention, the present writ petition has been filed.

3. Amidst several grounds raised, learned counsel for petitioner submits that though the detaining authority has considered the position that the bail application of the detenu in the ground case was pending as on the date of passing the detention order, he has gone on to inform that there was a likelihood of the detenu being released on bail since in a similar case, bail was granted by the Madurai Bench of this Court in CrI.O.P(MD).No.7373 of 2015 dated 21.04.2015 in respect of Crime No.36 of 2015 on the file of Narcotic Intelligence Bureau Crime Investigation Department, Dindugal Unit. Learned counsel submits that the order of the detaining authority reflects non-application of mind since in the ground case, there is no dispute that investigation is pending whereas in the case cited as similar, the fact that investigation therein stood completed has been noted.

4. We have heard learned Additional Public Prosecutor on the above submissions.

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

6. Accordingly, the impugned detention order passed by the second respondent, detaining the detenu, namely, Vincent, S/o.Joshwa, aged 45 years, made in BCDFGISSSV No.48/2015 dated 26.05.2015, 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/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

1.The District Collector and District Magistrate,
Kancheepuram District,
Kancheepuram.

2.The Secretary,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Chief Secretariat, Fort St. George,
Chennai - 600 009.

3.The Superintendent,
Central Prison,
Puzhal, Chennai.

4.The Public Prosecutor
High Court, Chennai.

5.The Superintendent of Central Prison,
Puzhal, Chennai

6.The Joint Secretary to Govt.
Public (Law & Order),
Fort St. George, Chennai 9.

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