

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.09.2015

Coram:

THE HON'BLE DR.JUSTICE S.TAMILVANAN

and

THE HON'BLE MR.JUSTICE C.T.SELVAM

H.C.P.No.1593/2015

C.Lakshmi

... Petitioner

-vs-

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

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

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus, calling for the records relating to the detention order passed by the second respondent pertaining to the order made in S.C.No.23 of 2015 dated 26.05.2015 in detaining the detenu under 2-b of Tamil Nadu Act 14 of 1982, as a Bootlegger and quash the same and direct the respondents to produce the detenu Chinnappan, son of Pachiyappan, aged about 44 years, who is detained at Central Prison, Salem before this Court and set him at liberty.

For petitioner : Mr.M.Selvam

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

O R D E R

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

The petitioner is the wife of the detenu herein. The detenu has been branded as a "BOOTLEGGER" under the provisions of the 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 the order of the second respondent passed in S.C.No.23 of 2015 dated 26.05.2015.

2.Though the learned counsel for the petitioner has raised several other grounds to assail the order of detention, he mainly focused his arguments on the ground that the non-supply of copy of both the bail application and the bail order in respect of the similar case referred to by the Detaining Authority in the grounds of detention for arriving at the subjective satisfaction that the detenu would be granted bail, registered in Cr.No.22/2014 u/s.4(1)(aa) r/w 4 (1-A) of Tamil Nadu Prohibition Act, 1937, wherein bail was granted by the Principal Sessions Court, Dharmapuri in CrI.M.P.No.351/2015. He would further submitted that non-supply of relevant documents has deprived the detenu in making effective representation to the authorities concerned and therefore, on this sole ground, the detention order is liable to be quashed.

3.We have heard the learned Additional Public Prosecutor on the above submission made by the learned counsel for the petitioner.

4.A careful scrutiny of the Booklet furnished to us would reveal that the Detaining Authority has neither furnished the copy of the bail application nor furnished the copy of the bail order in respect of the similar case referred to by the Detaining Authority in the grounds of detention for arriving at the subjective satisfaction that the detenu would be granted bail, registered in Cr.No.22/2014 u/s.4 (1)(aa) r/w. 4(1-A) of Tamil Nadu Prohibition Act, wherein bail was granted by the Principal Sessions Court, Dharmapuri in CrI.M.P.No.351/2015. Thus, when the relevant documents were not supplied, the opportunity of making effective representation upon knowledge of the factual situation stands denied to the detenu and the same, which amounts to infringement of right ensured under Article 22(5) of the Constitution of India, would vitiate the order of detention.

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

-Sd/-
Assistant Registrar(co)

//True copy//

Sub Assistant Registrar

cse

To :

- 1.State of Tamil Nadu rep. by
Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The District Magistrate and District Collector,
Dharmapuri,
Dharmapuri District.
- 3.The Public Prosecutor
High Court, Madras.
- 4.The Superintendent of Central Prison
Salem.
5. The Joint Secretary to Government
Public (law & Order) Dept.
Fort.st.George, Chennai.

+1 cc to Mr.M.Selvam,Advocate(sr.48848)

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kv(co)
cp 30/09/2015