

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2015

C O R A M

THE HONOURABLE MR.JUSTICE C.T.SELVAM
AND
THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Habeas Corpus Petition No.2172 of 2015

K.Mallika

S/o.Kanagaraj @ Kaliyappan

... Petitioner/
Mother of the Detenu

-vs-

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

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

Writ petition under Article 226 of the Constitution of India filed praying for issuance of a writ of Habeas Corpus to call for the records pertaining to detention order passed by second respondent against the detenu Pavunraj S/o.Kanagaraj @ Kaliyappan, Male, aged about 25 years, in S.C.No.21 of 2015 dated 13.05.2015, quash the same and consequently, to direct the respondents to produce the detenu 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

(The order of the Court was made by C.T.SELVAM, J.)

Petitioner is the mother of the detenu Pavunraj S/o.Kanagaraj @ Kaliyappan, who has been branded as "Sand Offender" under the Tamil Nadu Act 14 of 1982 and detained

under orders of second respondent passed in S.C.No.21 of 2015 dated 13.05.2015. Such order is under challenge herein.

2. The ground case has been registered against the detenu in Crime No.82 of 2015 on the file of Mathikonpalaiyam Police Station for offences u/s.294(b), 307, 379 IPC r/w 21(1) (iv) Mines and Minerals (Development and Regulation) Act, 1957.

3. Amidst several grounds raised, learned counsel for petitioner submits that towards informing the possibility of the detenu being released on bail, order of bail passed by this Court in Crl.O.P.No.10994 of 2015 in connection with the case in Crime No.183 of 2015 on the file of Karimangalam Police Station, for offences u/s.294(b), 353, 307, 379 r/w 21 (1)(iv) Mines and Minerals (Development and Regulation) Act, 1957, has been referred to by the detaining authority. The order copy therein has been furnished to the detenu, but the bail application in such case has not been furnished and that the same adversely has affected the detenu's right of making an effective representation.

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

5. Non furnishing of relevant documents would deprive the detenu the opportunity of making effective representation to the authorities concerned. The same amounts to infringement of right enshrined under Article 22(5) of the Constitution of India and would vitiate the order of detention. For the aforesaid reason, this Court would allow the present petition.

This Habeas Corpus Petition is allowed. The detention order passed by second respondent against the detenu Pavunraj S/o.Kanagaraaj @ Kaliyappan, made in S.C.No.21 of 2015 dated 13.05.2015, is quashed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

WEB COPY

-Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

gm

To

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

2. The District Magistrate and
District Collector,
Dharmapuri.

3. The Public Prosecutor
High Court, Chennai.

4. The Superintendent of Central Prison,
Salem.

5. The Joint Secretary to Government
Publi (Law & Order) Dept,
Fort.St.George,Chennai.9

+1 cc to Mr.M.Selvam,Advocate(sr.53000)

H.C.P.No.2172 of 2015

Sai(co)
cp 16/10/2015

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