

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.08.2015

CORAM:

THE HONOURABLE DR.JUSTICE S.TAMILVANAN
AND

THE HONOURABLE MR.JUSTICE C.T.SELVAM

H.C.P.No.598 of 2015

Tamilselvi
W/o.Elango

.. Petitioner

Vs

1. The Secretary to the Government,
Home, Prohibition & Excise Department,
Secretariat,
Chennai-600 009.

2. The Commissioner of Police,
Chennai Police,
Chennai.

.. Respondents

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 in connection with the order of detention passed by the second respondent dated 14.02.2015 in BDFGISSV No.145/2015 against the mother of the petitioner, Detenue Latha, M/A 40, W/o Kubendran, who is confined at Central Prison, Special Prison for Women Puzhal, Chennai and to set aside the same and consequently, direct the respondents to produce the detenue before the Hon'ble Court and set him at liberty.

For Petitioner : Mr.T.V.Somasundaram

For Respondents : Mr.M.Maharaja, APP

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O R D E R

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

Petitioner is the daughter of the detenue, who has been branded as a "Bootlegger" under the Tamil Nadu Act 14 of 1982 and detained under order of the second respondent passed in BDFGISSV No.145/2015 dated 14.02.2015.

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

Sl.No.	Police Station and Crime No.	Sections of Law
1.	PEW East Unit, Crime No.157 of 2013	4(1)(a) r/w 4(1-A) TNP Act
2.	PEW East Unit, Crime No.298 of 2013	4(1)(a) r/w 4(1-A) TNP Act
3.	PEW East Unit, Crime No.68 of 2014	4(1)(a) r/w 4(1-A) TNP Act
4.	PEW East Unit, Crime No.368 of 2014	4(II) r/w 110 (g) Cr.P.C.
5.	PEW East Unit, Crime No.418 of 2014	4(1)(a) r/w 4(1-A) TNP Act

The alleged ground case has been registered against the detenue on 03.02.2015, by the PEW Triplicane Unit, in Crime No.52 of 2015 for offences under Sections 4(1)(a) r/w 4(1-A) TNP Act. Aggrieved by the order of detention, the present writ petition has been filed.

3. Amidst several contentions, learned counsel for petitioner drew the attention of this Court to paragraph No.4 of the grounds of detention. The same reads as follows:

"4. I am aware that Tmt.Latha is in remand in PEW Triplicane Unit Crime No.52/2015 and she moved a bail application before the Court of Sessions, Chennai in CrI.M.P.No.1946 of 2014 for PEW, Triplicane Unit Cr.No.52/2015 and the bail is dismissed. In a case registered in Prohibition Enforcement Wing Triplicane Unit East Cr.No.418/2014 under section 4(1)(a) r/w 4(1-A) of TNP Act bail was granted by the Principal Sessions Court in CrI.M.P.No.20210/2014 for the same Tmt.Latha in one of the adverse case and hence it is very likely of her coming out on bail in PEW, Triplicane Unit Cr.No.52/2015, since in similar cases bails are granted after lapse of time. If she comes out on bail, she will indulge in further activities, which will be prejudicial to the maintenance of public health and order. Further the recourse to normal criminal law would not have the desired effect of effectively preventing her from indulging in such activities, which are prejudicial to the maintenance of public health and order. On the materials placed before me, I am satisfied that the said Tmt.Latha is a Bootlegger and that there is a compelling necessity to detain her in order to prevent her from indulging in such further activities in future which are

prejudicial to the maintenance of public health and order under the provisions of the Tamil Nadu Act 14 of 1982."

4. Learned counsel for petitioner points out that a reading of the above paragraph does not inform the satisfaction of the detaining authority as to the 'real' or 'imminent' possibility of the detenu being released on bail. Learned counsel for petitioner further submitted that though the detaining authority has informed that there is likely of the detenu coming out on bail in Crime No.52 of 2015 on the file of PEW, Triplicane Unit, since in similar cases bails were granted to her, he has not informed that either the detenu or her relatives/friends are taking steps to file bail application. It is further submitted that the same would vitiate the order of detention.

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

6. Finding that the subjective satisfaction arrived by the detaining authority is erroneous, this Court would allow the present petition.

Accordingly, the impugned detention order passed by the second respondent, detaining the detenu, namely, Latha, W/o Kubendran, made in BDFGISSV No.145/2015 dated 14.02.2015, is quashed and the Habeas Corpus Petition is allowed. The above named detenu is ordered to be set at liberty forthwith, unless her custody is required in connection with any other case.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

gm

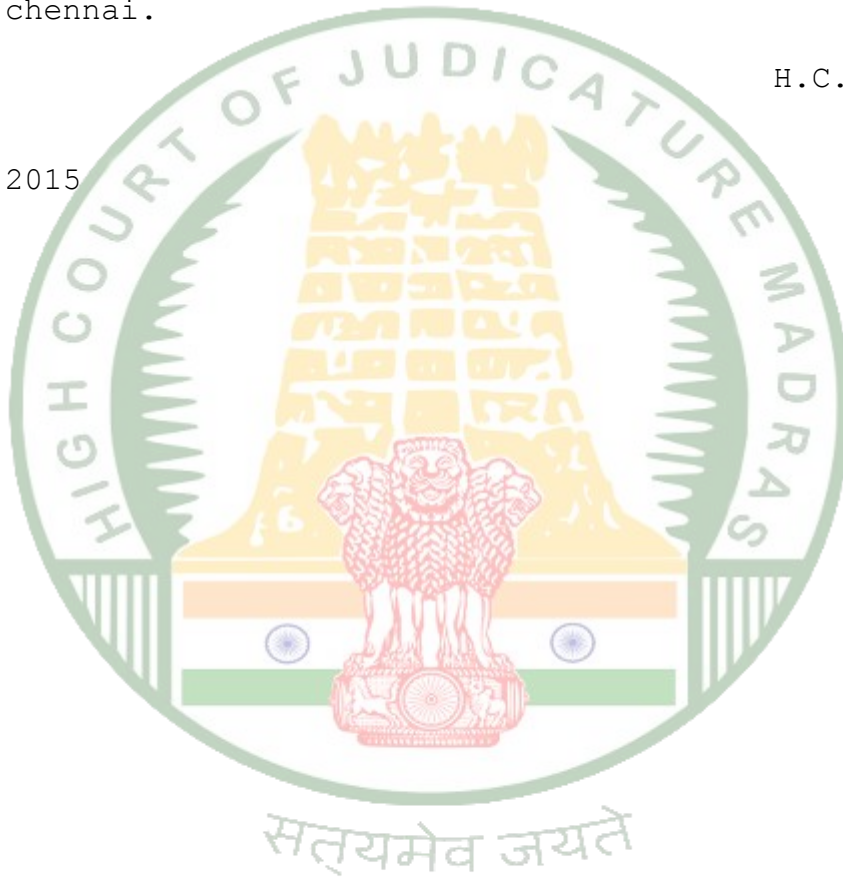
To

1. The Secretary to the Government,
Home, Prohibition & Excise Department,
Secretariat,
Chennai-600 009.
2. The Commissioner of Police,
Chennai Police,
Chennai.

3. The Public Prosecutor,
High Court, Chennai.
4. The Joint Secretary to Government,
Public (law & Order)
Fort Saint George,
Chennai-9.
5. The Superintendent
Central Prison,
Special Prison for women,
Puzhal chennai.

H.C.P.No.598 of 2015

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srg 21.08.2015



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