

In the High Court of Judicature at Madras

Dated: 27.02.2015

Coram:

The Hon'ble Mr.Justice M.Jaichandren
and
The Hon'ble Ms.Justice K.B.K.Vasuki

H.C.P. No.3075 of 2014

Chandramathi .. Petitioner

vs.

1.State, rep. By the District Collector &
District Magistrate, Cuddalore Dist.

2.State by the Inspector of Police,
Prohibition Enforcement Wing,
Panruti Police Station, Cuddalore.

... Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India praying for the relief as stated therein.

For petitioner : Mr.S.A.Rajan

For respondents : Mr.C.Emalias, APP

O R D E R

This Habeas Corpus Petition is filed by the wife of the detenu, namely, Kannan, son of Thangavel, aged about 55 years, to issue a Writ of Habeas Corpus, to call for the records, in Ref.No.C3/D.O./13/2014 dated 27.5.2014, passed by the 1st Respondent, detaining the detenu, under Section 3(1) 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 14/1982) the Tamil Nadu Act 14 of 1982, branding him as a "Bootlegger", in the Central Prison, Cuddalore, and to quash the same and to direct the respondents to produce the body of the detenu and set him at liberty forthwith.

2. Though several grounds have been raised in this Habeas Corpus Petition, the learned counsel for the petitioner has assailed the impugned detention order only on the ground of non-application of mind on the part of the detaining authority, while passing the impugned order of detention, thereby vitiating the detention.

3. Per contra, the learned Additional Public Prosecutor would submit that the impugned detention order has been passed on cogent and sufficient materials and there is no illegality or infirmity in the impugned order of detention.

4. We have given our careful and anxious consideration to the rival submissions put forward by the learned counsel on either side and thoroughly scanned through the impugned detention order and the entire materials available on record.

5. In paragraph No.6 of the grounds of detention, it has been stated that the detenu had filed a bail application in CrI.M.P.No.2075/2014 before the Court of Sessions Judge, Cuddalore, in respect of P.E.Wing, Panruti Crime No.316/2014 and that the said application had been dismissed on 12.5.2014. It has been further stated that there is a real possibility of the detenu filing yet another bail application in future and coming out on bail by getting favourable orders. However, no materials have been furnished to show that steps were taken to file yet another bail application in respect of P.E.Wing, Panruti Crime No.316/2014. The detaining authority, without any cogent material available on record, has arrived at the conclusion that there is a real possibility for the detenu to come out on bail and that if the detenu comes out on bail, he is likely to indulge in such activities, which are prejudicial to the maintenance of public order and hence, there is a compelling necessity to detain the detenu under the provisions of the Tamil Nadu Act 14/1982, in order to prevent him from indulging in such activities in future, which are prejudicial to the maintenance of public peace and order. The above conclusion of the detaining authority is based on mere surmises and conjectures. In the absence of any materials on record, on the basis of which, the detaining authority could be satisfied that the detenu was likely to be released on bail, the mere ipse-dixit of the detaining authority is not sufficient to sustain the order of detention. The Detaining Authority has passed the impugned detention order in total non application of mind and the subjective satisfaction arrived at by the Detaining Authority, i.e. there is a real possibility of the detenu coming out on bail is a mere ipse-dixit, without any cogent material. Thus, the non-application of mind on the part of the detaining authority in this aspect necessitates interference by this Court and accordingly the order of detention is liable to be quashed.

6. In the result, this Habeas Corpus Petition is allowed. The impugned detention order is set aside. The detenu is directed to be released forthwith, unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

- 1.The Secretary to Government,
Prohibition and Excise Department,
Fort St.George, Chennai-9
 - 2.State, rep. By the District Collector &
District Magistrate, Cuddalore Dist.
 - 3.The Superintendent, Central Prison, Cuddalore
 - 4.The Joint Secretary to Government,
Public(Law & Order)
Fort St.George, Chennai - 600 009.
 - 5.The Inspector of Police,
Prohibition Enforcement Wing,
Panruti Police Station, Cuddalore.
 - 6.The Public Prosecutor, Madras High Court, Madras
- 1 cc to Mr. S.A.Rajan, Advocate, SR.No.11412

HCP.No.3075/2014

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pmk.18.3.2015