



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION (MD) No.1114 of 2014

Radha Devi

.. Petitioner

Vs.

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

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

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai.

.. Respondents

Prayer:- Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus praying to call for the entire records connected with the detention order of the respondent No.2 in Cr.M.P.No.17/2014 (Bootlegger), dated 09.09.2014 and quash the same and direct the respondents to produce the body and person of the detenu, namely, Balaganesan, Son of Keasivel Nadar, aged 38 years detained in Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.A.Ramar
Addl.Public Prosecutor

ORDER

(Order of the Court was made by **A.SELVAM, J**)

This Habeas Corpus Petition has been filed under Article 226 of the Constitution of India praying to call for records relating to detention order passed in Cr.M.P.No.17/2014 (Bootlegger), dated 09.09.2014 by the detaining authority, who has been arrayed as second respondent herein, against the detenu by name Balaganesan, Son of Keasivel Nadar and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Dhalavaipuram Police Station as sponsoring authority has submitted an affidavit to the detaining authority wherein it is stated that on 21.08.2014, as per the direction given by the Deputy Superintendent of Police, Rajapalayam, the Inspector of Police and others have conducted raid in TASMAL shop No.11940 situated at Puttur Village, Rajapalayam Taluk and ultimately found 1363 bottles of illicit arrack and subsequently, the detenu and one more person have been arrested and consequently, a case has been registered in Crime No.456 of 2014 under Sections 4(1-a), 4(1-aaa), 4(1-A) and 24 of Tamil Nadu Prohibition Act read with Section 486 and 270 of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

3. The detaining authority, after perusing the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu is a bootlegger and consequently, passed the impugned detention order and in order to quash the same, the present Habeas Corpus Petition has been filed by the wife of the detenu as petitioner.

4. On the side of the respondents, a detailed counter has been filed, wherein it has been contended to the effect that all the averments made in the petition are false and ultimately prayed to dismiss the same.

5. The learned counsel appearing for the petitioner has contended that on the side of the detenu, two representations have been submitted and the same have not been disposed of without delay and therefore, the detention order in question is liable to be quashed.

6. The learned Additional Public Prosecutor has contended that the representations submitted on the side of the detenu have been duly disposed of without delay and therefore, the detention order in question is not liable to be quashed.

7. On the side of the respondents, a proforma has been submitted wherein it has been clearly stated that with regard to first representation in between column Nos.7 to 9 eight clear working days and in between column Nos.12 and 13 five clear working days are available and likewise, with regard to second representation in between column Nos.7 to 9 five clear working days and in between column Nos.12 and 13 three clear working days are available and no explanation has been given on the side of the respondents with regard to huge delay and that itself would affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India and therefore, the detention order in question is liable to be quashed.

8. In fine, this Habeas Corpus Petition is allowed and the order of detention dated 09.09.2014 in Cr.M.P.No.17/2014 (Bootlegger) passed by the second respondent/detaining authority is quashed and consequently, the detenu Balaganesan, Son of Keasivel Nadar is ordered to be set at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar

<https://hcservices.ecourts.gov.in/hcservices/>

/True Copy/

Sub Assistant Registrar(C.S.)



To

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

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

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai.

4. The Joint Secretary to Government Public
(Law and order) Secretariat, Chennai - 9.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr. R.Alagumani, Advocate in SR.No. 2942

TS/22.01.2015/3P-7C

ORDER MADE IN
H.C.P (MD) No.1114 of 2014

21.01.2015