



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2015

CORAM:

THE HONOURABLE MR. JUSTICE P.R. SHIVAKUMAR

and

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

H.C.P (MD) No.1596 of 2015

Nabilkhan

.. Petitioner

Vs.

1. The Secretary to Government,
State of Tamil Nadu
Home, Prohibition and Excise Department,
Fort. St. George, Chennai 600 009.
 2. The District Collector and District Magistrate
Office of the District Collector and District Magistrate
Tirunelveli District, Tirunelveli.
 3. The Superintendent of Prison,
Palayamkottai Central Prison
Tirunelveli District.
- .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the entire records connected with the detention order of the respondent No.2 in M.H.S.Confdl.123/2015, dated 06.11.2015 and quash the same and direct the respondents to produce the body or person of the detenu by name Nabil Khan, S/o. Abdulkhadhar, aged about 24 years, now detained at Palayamkottai Central Prison, before this Court and set him at liberty forthwith.

For petitioner : Mr. R. Alagumani

For Respondents : Mr. A. Ramar

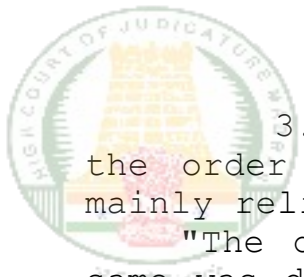
Additional Public Prosecutor

O R D E R

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

The petitioner is the detenu. He has been detained by the second respondent by his order in Detention Order in M.H.S.Confdl. No.123/2015, dated 06.11.2015, holding him to be a "Boot Legger", as contemplated under Section 2(b) of Tamil Nadu Act 14 of 1982, taking note of the ground case in Crime No.273 of 2015 registered on the file of Palavoor Police Station for offences punishable under Sections 4(1) (aaa), 4(1-A) of Tamil Nadu Prohibition Act read with 7 of Tamil Nadu Rectified Spirit Rule 2000.

2. The Detaining Authority, expressing subjective satisfaction that the detenu conformed to the definition of Bootlegger and that his presence at large would be prejudicial to the maintenance of public order and public health and also expressing subjective satisfaction that it was very likely that the detenu would come out on bail in the ground case, passed the impugned detention order. The said order is challenged in the present Habeas Corpus Petition.



3. Though a number of grounds have been raised assailing the order of detention, the learned counsel for the petitioner mainly relies on the following contention:-

"The detenu has filed a bail petition on 04.11.2015 and the same was dismissed and on 06.11.2015, the detention order came to be passed. Except the ground case, there is no other case against the detenu. The order has been passed as if there are more than one case against the detenu. On that ground alone, the order of detention is vitiated"

4. The submissions made by the learned Additional Public Prosecutor in reply to the above said contention raised by the learned counsel for the petitioner are also heard.

5. It is seen that except the ground case, there is no other case pending against the detenu. The bail application filed by the detenu was dismissed as early as on 04.11.2015 and the detention order came to be passed on 06.11.2015 and the Detaining Authority has not applied its mind in passing the order of detention. On that score alone, the order of detention is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and this Court sets aside the Order of Detention dated 06.11.2015, made in M.H.S.Confdl.123/2015 by the second respondent, the District Collector and District Magistrate, Tirunelveli, and directs the release of the detenu, by name Nabilkhan, S/o.Abdulkhadar, aged about 24 years forthwith, if his continued custody is not authorised in specific cases or by any other detention order.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub-Assistant Registrar

To:

- 1.The Secretary to Government,
State of Tamil Nadu
Home, Prohibition and Excise Department,
Fort.St.George, Chennai 600 009.
- 2.The District Collector and District Magistrate
Office of the District Collector and District Magistrate
Tirunelveli District, Tirunelveli.
- 3.The Superintendent of Prison,
Palayamkottai Central Prison Tirunelveli District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- 5.The Joint Secretary to Government
Public(Law and Order) Department, Secretariat,Chennai-9

RR

RL/6C/SKS/RR/31/12/2015