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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
and

THE HONOURABLE MR.JUSTICE V.S.RAVI

HABEAS CORPUS PETITION (MD) No.241 of 2015

P.Gunasekaran

.. Petitioner

Vs.

1.The Additional Secretary,
Government of India,
Ministry of Consumer Affairs, Food and
Public Distribution (Department of Consumer Affairs),
Room No.270, Krishi Bhavan,
New Delhi - 110 001.

2.The Secretary,
Government of Tamil Nadu,
Co-Operation, Food and Consumer
Protection Department,
Secretariat,
Chennai - 9.

3.The Commissioner of Police,
Trichy City,
Trichy.

4.The Inspector of Police,
CS.CID, Trichy.

.. Respondents

Prayer:- Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the records pertaining to the order of detention passed by the third respondent in his proceedings in C.No.B.M.01/Detention/C.P.O/TRC/2015, dated 06.02.2015 and quash the same as illegal and produce the detenu, namely Arun Babu, Son of Gunasekaran, aged about 23 years, now he is confined in Central Prison, Trichirappalli before this Court and set him at liberty and pass such further or other orders.

For Petitioner : Mr.T.Lenin Kumar

For R - 1 : Mr.K.Ashok Kumar
(CGC)

For RR 2 to 4 : Mr.C.Ramesh

Additional 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 the detention order passed in C.No.B.M.01/Detention/C.P.O/TRC/2015, dated 06.02.2015 by the detaining authority, who has been arrayed as third respondent herein against the detenu by name Arun Babu, Son of Gunasekaran and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Civil Supplies CID, Tiruchirappalli as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that the detenu has involved in the following adverse cases:

(i) Crime No.344 of 2012 Tiruchirappalli CSCID registered under Sections 6(4) of TNSC (RDCS) Order 1982 read with 7(1)(a)(ii) of the Essential Commodities Act, 1955.

(ii) Crime No.356 of 2013 Tiruchirappalli CSCID registered under Sections 6(4) of TNSC (RDCS) Order 1982 read with 7(1)(a)(ii) of the Essential Commodities Act, 1955.

(iii) Crime No.274 of 2014 Tiruchirappalli CSCID registered under Sections 6(4) of TNSC (RDCS) Order 1982 read with 7(1)(a)(ii) of the Essential Commodities Act, 1955.

3. Further it is stated in the affidavit that on 21.01.2015 at about 05.00 hours, the Inspector of Police and others have made a vehicle check up and ultimately found 15 bags of PDs rice, each weighing 50 kgs., and consequently, a case has been registered in Crime No.22 of 2015 under sections 6(4) of TNSC (RDCS) Order 1982 read with 7(1)(a)(ii) of the Essential Commodities Act, 1955 and ultimately requested the detaining authority to invoke Central Act 7 of 1980 against the detenu.

4. 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 habitual offender and ultimately branded him as 'Black Marketeer' by way of passing the impugned detention order and in order to quash the same, the present Habeas Corpus Petition has been filed by the father of the detenu as petitioner.

5. On the side of the respondents 2 to 4, 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.

6. On the side of the first respondent, counter has not been

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7. The learned counsel appearing for the petitioner has contended that on the side of the detenu two representations are submitted and the same have not been disposed of without delay and



therefore the detention order in question is liable to be quashed.

8. The learned Additional Public Prosecutor appearing for the respondents 2 to 4 has also equally contended that the representations submitted on the side of the detenu are duly considered and disposed of without delay and therefore the detention order in question does not call for any interference.

9. On the side of the respondents 2 to 4, a proforma has been submitted wherein it has been clearly stated that with regard to first representation in between Column Nos.7 to 9, four clear working days are available and in respect of second representation in between Column Nos.7 to 9, six clear working days are available and no explanation has been given on the side of the respondents 2 to 4 with regard to such delay in disposing of the representations submitted on the side of the detenu 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.

10. In fine, this Habeas Corpus Petition is allowed and the detention order passed in C.No.B.M.01/Detention/C.P.O/TRC/2015, dated 06.02.2015 by the third respondent/detaining authority is quashed and consequently the detenu viz., Arun Babu, Son of Gunasekaran is ordered to be set at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar (C.O.)

/True Copy/

Sub Assistant Registrar

To

1.The Additional Secretary,
Government of India,
Ministry of Consumer Affairs, Food and
Public Distribution (Department of Consumer Affairs),
Room No.270, Krishi Bhavan,
New Delhi - 110 001.

2.The Secretary,
Government of Tamil Nadu,
Co-Operation, Food and Consumer
Protection Department,
Secretariat,
Chennai - 9.

3.The Commissioner of Police,
Trichy City,
Trichy.

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4.The Inspector of Police,
CS.CID, Trichy.

5. The Superintendent,



Central Prison, Tiruchirappalli.
(In duplicate to communicate the detainee)

6. The Joint Secretary,
Government of Tamil nadu,
Public (Law and Order),
Fort St.George, Chennai-9.

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

+1cc to Mr.T.Lenin Kumar, Advocate Sr.No.32612
+1cc to Mr.Ashok Kumar, Advocate, Sr.No.33456.

ps
akm/AMF/4P-10C/23.06.15

ORDER MADE IN
H.C.P (MD) No.241 of 2015
22.06.2015