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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 20.04.2015

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THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

H.C.P.(MD)No.59 of 2015

Revathi

.. Petitioner/Wife of detenue

Vs.

1.State rep.by,
The Secretary to Government,
Home, Prohibition & Excise Department,
State of Tamilnadu,
Secretariat, Chennai - 9.

2.The District Collector & District Magistrate,
Madurai District, Madurai. .. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for entire records connected with the detention order dated 24.12.2014 passed in C.M.P.No.25/2014 by the second respondent in detaining the detenu under Section 2(e) of Tamilnadu Act 14 of 1982 as a Drug Offender and quash the same and direct the respondents to produce the detenu namely Satheesh S/o.Palanichamy, male aged about 30 years, now detained in Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.B.Pandiarajan

For Respondents : Mr.C.Ramesh
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 the detention order passed in C.M.P.No.25/2014 dated 24.12.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Satheesh S/o.Palanichamy and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Madurai NIB CID Unit as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that the detenu has involved in the following adverse case:

<https://hcservices.ecourts.gov.in/hcservices> Crime No.423 of 2013 - Karuppayurani Police Station,
registered under Sections 8(c) r/w 20(b)(ii)(C) and 25 of NDPS
Act.



Further it is stated in the affidavit that on 14.10.2014, the Inspector of Police, Madurai NIB CID Unit has intercepted a vehicle bearing Registration No.TN-11-B-5313 near Chittampatti and ultimately found that the detenu and another are in possession of 320 kilograms of ganja without permission and consequently a case has been registered in Crime No.197 of 2014 under Sections 8(c) r/w 20(b)(ii)(C) & 25 and 29(i) of NDPS Act, 1985 and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

3. The detaining authority after considering the fact that the detenu is a habitual offender has derived subjective satisfaction to the effect that the detenu is a 'drug offender' and ultimately branded him under the said caption 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 wife of the detenu as petitioner.

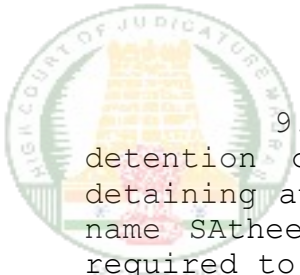
4. On the side of the respondents counter has been filed, wherein it has been contended *that* all the averments made in the petition are false and ultimately prayed to dismiss the same.

5. The learned counsel appearing for the petitioner has contended that the detaining authority has relied upon the order passed in Crl.O.P.No.19330 of 2014 and in fact the circumstances mentioned therein are not similar to that of the present case. But the detaining authority without applying his mind has erroneously passed the impugned detention order and therefore, the same is liable to be quashed.

6. The learned Additional Public Prosecutor has contended that the detaining authority after considering the fact that the detenu is a habitual offender and also after considering quantity of ganja involved in the ground case, has rightly branded the detenu as 'drug offender' by way of relying upon the order passed in Crl.O.P.No.19330 of 2014 and therefore, the detention order in question need not be quashed.

7. On the basis of the rival submissions made on either side, this Court has perused paragraph-5 of the detention order, wherein it has been clearly stated that the detaining authority has relied upon the order passed in Crl.O.P.No.19330 of 2014 dated 06.11.2014, wherein it has been clearly mentioned that the accused 1 and 2 therein have already been granted bail. Under the said circumstances, the petitioner therein has also been granted bail. In the order passed in Crl.O.P.No.19330 of 2014 no quantity of ganja involved in that case has not been mentioned and likewise, no adverse cases have also not been mentioned.

8. In the instant case, as stated earlier, in the ground case, totally 320 kilograms of ganja are involved. Since no mention has been made in the order passed in Crl.O.P.No.19330 of 2014 with regard to quantity of ganja involved in that case and since the circumstances mentioned therein are not similar to that of the facts of the present case, it is very clear that the similar case particulars relied upon by the detaining authority are totally erroneous and therefore, the detention order in question is liable to be quashed.



9. In fine, this Habeas Corpus Petition is allowed and the detention order dated 24.12.2014 passed in C.M.P.No.25/2014 by the detaining authority/second respondent herein is quashed and the detenu by name SATheesh is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(Per.Admn)

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Sub Assistant Registrar

To

- 1.The Secretary to Government, Home, Prohibition & Excise Department,
State of Tamilnadu, Secretariat, Chennai - 9.
- 2.The District Collector & District Magistrate, Madurai District, Madurai
- 3.The Superintendent, Central Prison, Madurai
- 4.The Joint Secretary to Government Public(Law & order) Fort St.George,
Chennai-9
- 5.The Addl.Public Prosecutor, Madurai Bench of Madras High Court,
Madurai.

+1cc to MR.B.PANDIARAJAN, ADVOCATE SR.NO.20665

H.C.P.(MD)No.59 of 2015
20.04.2015

MJ

NA/23/04/2015/P3/7C