



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P (MD) No.678 of 2015

R.Valli

.. Petitioner

Vs.

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

2.The Commissioner of Police,
Tirunelveli City,
Tirunelveli.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the entire records of detention order passed in No.44/BCDFGISSSV/2015 dated 30/04/2015 on the file of the 2nd respondent herein and set aside the same as illegal and direct the respondents to produce their person or body of the petitioner husband namely M.Allathan S/o. Muthaiah Thevar, aged 29 years, before this Court and set him at liberty from Central Prison Palayamkottai.

For Petitioner : Mr.K.Sudalaiyandi

For Respondents : Mr.T.Mohan

Additional Public Prosecutor.

O R D E R

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

The petitioner is the wife of the detenu, namely Allathan, S/o. Muthaiah Thevar, aged about 29 years. He has been detained under the Tamil Nadu Act 14 of 1982 as per the order of the first respondent in his proceedings in Detention Order No.44/BCDFGISSSV/2015, dated 30.04.2015, branding him as "Boot-legger". Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.

<https://hcservices.ecourts.gov.in/hcservices/> have heard the learned counsel appearing for the petitioner and learned Additional Public Prosecutor appearing for the State. We have also perused the records carefully.



3. Though several grounds have been raised in this petition, the learned counsel for the petitioner would focus his arguments on the ground that the so called subjective satisfaction said to have been arrived at by the Detaining Authority that there was real possibility of the detenu would come out on bail is not based on any material. He would further point out that as mentioned in paragraph No.6 of the detention order, the detenu had not moved any application before any Court for bail.

4. The learned Additional Public Prosecutor is not in a position to dispute in the above fact.

5. We have considered the above submissions.

6. It is crystal clear that in Crime No.254 of 2015, the detenu had not filed any application for bail before any Court. If that be so, it is strange as to how the Detaining Authority had come to the satisfaction that there was real possibility of the detenu coming out on bail.

7. In our considered view, the said satisfaction is based on no material. Therefore the detention order is liable to be set aside.

8. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the first respondent, in his Detention Order No.44/BCDFGISSSV/2015, dated 30.04.2015, is quashed. The detenu, namely, M.Allathan S/o. Muthaiah Thevar, aged 29 years is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-
Assistant Registrar(Co)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government, Home, Prohibition and Excise Department, Secretariat, State of Tamilnadu, Chennai-600 009.
 - 2.The Commissioner of Police, Tirunelveli City,Tirunelveli.
 - 3.The Superintendent of Prison,Palayamkottai Central Prison, Tirunelveli District.(In duplicate to communicate the detenu)
 - 4.The Joint Secretary to Government of TamilNadu, Public (Law & Order) Department, Ft.St.George, Chennai-9
 - 5.The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.
- +1CC to Mr.K.Sudalaiyandi, Advocate, SR.No. 53561

ORDER MADE IN
H.C.P(MD)No.678 of 2015
11.09.2015

AM/18.09.2015/SK-SKN/SAR-I/2P/8C