



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P(MD)No.696 of 2015

S.Parvathi

.. Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by the Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Secretariat,
Chennai-600 009.

2.The Deputy Inspector General of Police,
Tirunelveli Zone and the Commissioner
of Police, (Full Additional Charge),
Tirunelveli City.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, calling for the records relating to the order passed by the 2nd respondent in Detention Order No.40/BCDFGISSSV/2015, dated 29.04.2015, quash the same and set the detenu namely N.Sudalaikannu S/o.Nambi Thevar, aged about 26 years, who has been detained in Central Prison, Palayamkottai, before this Court and set him at liberty.

For Petitioner : Mr.M.Padmavathy

For respondents : Mr.T.Mohan,
Additional Public Prosecutor.

O R D E R

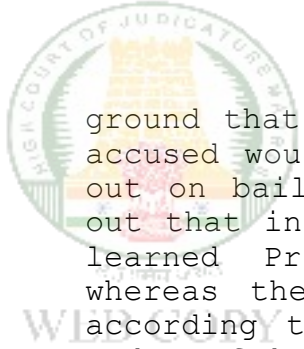
[Order of the Court was made by S.NAGAMUTHU, J]

The petitioner is the wife of one Mr.N.Sudalaikannu, S/o.Nambi Thevar. He has been detained as per the order of the second respondent under Section 2(b) of the Tamilnadu Act 14 of 1982, branding him as "Bootlegger". Challenging the same, the petitioner has come up with this petition.

2.We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records carefully.

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

3.Though several grounds have been raised in this petition, the learned counsel for the petitioner would mainly focus his argument on the



ground that the satisfaction arrived by the detaining authority that the accused would indulge in acts prejudicial to the public order by coming out on bail is totally baseless. The learned counsel would next point out that in Crime No.254 of 2015, the petitioner was granted bail by the learned Principal Sessions Judge, Tirunelveli only on 29.04.2015, whereas the detention order was also passed on the same day. Thus, according to the learned counsel, even before obtaining a copy of the order of bail from the Court, the detaining authority passed the order which would go to show that the order was not passed on considering the materials on record.

4. The learned Additional Public Prosecutor would, however, oppose this petition. According to him, a copy of the bail order was obtained on 29.04.2015 itself and immediately thereafter, the same was placed before the detaining authority for consideration. Therefore, the impugned order is liable to be sustained.

5. We have considered the above submissions. It is common knowledge that at any rate, the bail order would have been passed by the learned Principal Sessions Judge, only in the morning after 10.30 a.m. on 29.04.2015. It is also common knowledge that a copy of the said order, at the earliest, would have been granted only in the evening. But, the detention order came to be passed on the same day. However, the papers were served on the detenu only on 30.04.2015, which would indicate that the copy of the bail order would have been obtained in the evening on 29.04.2015 and the same was supplied to the detenu on 30.04.2015. It is also inferable that a copy of the bail order would not have been obtained by the detaining authority, when the detention order was passed. Preventive detention, being a detention without trial should be resorted to by strictly following the constitutional mandate. Here, in this case, the satisfaction arrived by the detaining authority, in our considered view, is not based on any material, but it is based on a predetermination on the part of the detaining authority. In such view of the matter, we are inclined to set aside the impugned order.

6. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order No.40/BCDFGISSSV/2015, dated 29.04.2015, passed by the second respondent is quashed. The detenu, by name, N.Sudalaikannu S/o.Nambi Thevar, aged about 26 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(AS)

/True Copy/

Sub Assistant Registrar.

To

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Secretariat,

<https://hcservices.ecourts.gov.in/hcservices>
Channel-000-009.



2.The Deputy Inspector General of Police,
Tirunelveli Zone and the Commissioner
of Police, (Full Additional Charge),
Tirunelveli City.

3. The Joint Secretary to Government Public (Law and Order) Department,
Fort St.George, Chennai.

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

5.The Superintendent, Central prison, Palayamkottai (In duplicate for
communicate the detenu)

6.The Principal Sessions Judge, Tirunelveli.

+1CC to M.Padmavathy, Advocate, SR.No. 57928.

Order Made in
H.C.P(MD)No.696 of 2015
01.10.2015

AM/07.10.2015/NGM.SS/SAR-I/3P/9C