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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

HABEAS CORPUS PETITION (MD) No.86 of 2015

Sathish

.. Petitioner

Vs.

1.The Secretary to Government,
Department of Co-operation,
Food and Consumer Protection Department,
Secretariat,
Chennai - 600 009.

2.The District Collector and District Magistrate,
Office of the District Collector and
District Magistrate,
Ramanathapuram District.

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

4.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

.. Respondents

Prayer:- Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus praying to call for the entire records connected with the detention order of the respondent No.2 in Cr.M.P.No.01/2015 (Black Marketeer), dated 06.01.2015 and quash the same and direct the respondents to produce the body or person of the detenu by name Sathish, Son of Krishnan, aged about 37 years, now detained in Madurai Central Prison before this Court and set him at liberty and pass such further or other orders.

For Petitioner : Mr.R.Alagumani

For RR 1, 2 & 4 : Mr.T.Mohan
Additional Public Prosecutor

For R - 3 : Mr.S.Balakrishnan

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 Cr.M.P.No.01/2015, dated 06.01.2015 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Sathish, Son of Krishnan and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Virudhunagar Unit, CSCID 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.437 of 2013 Kuzhithurai CSCID Unit 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.206 of 2014 Kuzhithurai CSCID Unit 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 22.12.2014, the detenu is found in possession of 23 bags of PDs rice without any authority and consequently, a case has been registered in Crime No.551 of 2014 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 brand the detenu as 'Black Marketeer'.

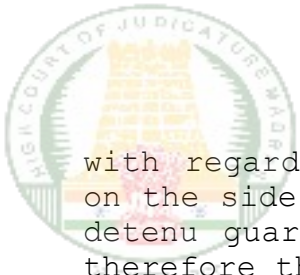
4. The detaining authority, after considering the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as 'Black Marketeer' by way of passing the impugned detention order and in order to quash the same, the present Habeas Corpus Petition has been filed by the detenu himself as petitioner.

5. On the side of the respondents 1, 2 and 4 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.

6. The learned counsel appearing for the petitioner has contended that on the side of the detenu a representation has been submitted and the same has not been disposed of without delay and therefore the detention order in question is liable to be quashed.

7. The learned Additional Public Prosecutor has contended that the representation submitted on the side of the detenu has been duly considered and disposed of without delay and therefore the detention order in question does not call for any interference.

8. On the side of the respondents 1, 2 and 4, a proforma has been submitted wherein it has been clearly stated that in between Column Nos.7 to 9, twelve clear working days are available and in between Column Nos.9 & 10, five clear working days are available and no explanation has been given on the side of the respondents 1, 2 and 4



with regard to huge delay in disposing of the representation 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.

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9. In fine, this Habeas Corpus Petition is allowed and the detention order passed in Cr.M.P.No.01/2015, dated 06.01.2015 by the second respondent/detaining authority is quashed and consequently the detenu viz., Sathish, Son of Krishnan is ordered to be set at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-
Assistant Registrar(Writs)

/TRUE COPY/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Department of Co-operation,
Food and Consumer Protection Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and
District Magistrate, Ramanathapuram District.
- 3.The Additional Secretary to Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
(Department of Consumer Affairs),
Room No.270, Krishi Bhavan,
New Delhi - 110 001.
- 4.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.(in duplicate for communication to detenu)
- 5.The Joint Secretary to Govt.,
Public (Law & Order),
Fort St.George, Chennai - 9.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Alagumani,Advocate, SR.No.22059

ORDER MADE IN
H.C.P (MD) No.86 of 2015
23.04.2015