

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.03.2016

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

AND

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

HCP.No.2833/2015

Mohanavalli

.. Petitioner

Vs

1.The Secretary to Government
Food and Consumer Protection Department
Government of India
New Delhi 110 001.

2.The Additional Secretary to Government
of India
Department of Consumer Affairs
Room No.270, Krishi Bhavan
New Delhi 110 001.

3.The Secretary to Government
Food and Consumer Protection Department
Government of Tamil Nadu
Fort St.George
Chennai 600 009.

4.The District Collector and
District Magistrate
Thiruvannamalai District
Thiruvannamalai.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of Habeas Corpus calling for the records relating to the Detention Order passed by the fourth respondent pertaining to the order made in D.No.52/2015-C2 dated 08.10.2015 in detaining the detenu under Section 7 of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980, as a Black Marketer and quash the same and direct the respondents to produce the detenu Balaji, S/o Ponnusamy, aged about 32 years, who is detained at Central Prison, Vellore before this Court and set him at liberty.

For Petitioner : Mr.A.Ramesh Manikandan
For Respondents : Mr.S.Arockiam,
CGSC for RR1 and 2
Mr.A.N.Thambidurai
Addl.Public Prosecutor
for RR3 and 4

ORDER

[Order of the court was delivered by S.NAGAMUTHU, J.]

The Petitioner, who is the wife of the detenu, viz., Balaji, son of Ponnusamy, aged 32 years, has filed this petition challenging the order of detention passed by the 4th respondent in D.No.52/2015-C2 dated 08.10.2015, branding her husband as a "BLACK MARKETER" under Section 3[1] r/w 3[2][a] of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 [Central Act 7 of 1980].

2. Even though the learned counsel for the petitioner raised many grounds in assailing the impugned order of detention in the petition, he focused his argument on the ground that in Cr.No.116 of 2015, the bail application filed by him was dismissed by the learned Judicial Magistrate No.1, Tiruvannamalai in Crl.M.P.No.6589 of 2015 on 30.09.2015 and thereafter, no application was filed by him seeking bail. When that be so, the satisfaction arrived at by the detaining authority, that there is likelihood of the detenu coming out on bail is absolutely baseless.

3. We have considered the above submissions.

4. As rightly pointed out by the learned counsel for the petitioner, from paragraph 5 of the detention order, it is crystal clear that the detenu had not filed any application seeking bail, after dismissal of Crl.M.P.No.6589 of 2015 in Cr.No.116 of 2015. When that be so, it is not explained to the Court as to how the detaining authority has come to the conclusion that there was real possibility of the detenu coming out on bail. This shows the predestination of the detaining authority. In such view of the matter, the detention order is liable to be quashed.

5. Accordingly, the habeas corpus petition is allowed and the detention order dated 08.10.2015, passed by the 4th respondent is quashed. The detenu is directed to be set at liberty, forthwith, unless his presence is required in connection with any other case.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

gms
To

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New Delhi 110 001.

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Fort St.George
Chennai 600 009.

4.The District Collector and
District Magistrate
Thiruvannamalai District
Thiruvannamalai.

5.The Superintendent of Central Prison
Vellore.

6.The Public Prosecutor, High Court, Chennai.

+1 cc to Mr.S.Arockiam Advocate sr.16615

HCP.No.2833/2015

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