

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.2925/2015

Rajaraman ... Petitioner/Father of the detenu

Vs

1.State of Tamil Nadu
rep by its Secretary to Government
Co-operation, Food and Consumer
Protection Department
Secretariat, Chennai 600 009.

2.The Commissioner of Police
Greater Chennai Police, Chennai.

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

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of Habeas Corpus calling for the records relating to petitioner son's detention under Black Marketing and Maintenance of Supplies of Essential Commodities Act as a 'Black Marketer' vide detention order, dated 23.10.2015 on the file of the second respondent herein made in proceedings No.2/2015 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's son namely T.R.Sathishkumar S/o Rajaraman, aged 27 years before this Court and set the petitioner's son at liberty from detention, now petitioner's son detained at Central Prison, Puzhal, Chennai.

For Petitioner : Mr.C.C.Chellappan

For Respondents: Mr.A.N.Thambidurai
Addl.Public Prosecutor for RR1 and 2
Mr.S.Arockiam,
CGSC for R3

ORDER

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

The Petitioner, who is the father of the detenu, viz., T.R.Sathishkumar, son of Rajaraman, aged 27 years, has filed this petition challenging the order of detention passed by the 2nd respondent in No.2/2015 dated 23.10.2015, branding his son as a "BLACK MARKETER" under Section 3(2)(b) r/w 3(1) 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.267 of 2015, the bail application filed by him was dismissed by the learned Judicial Magistrate No.1, Thiruvallur in CrI.M.P.No.7187 of 2015 on 16.10.2015 and thereafter, no application was filed by him seeking bail. However, in the detention order it had been stated that the relatives of the detenu are taking action to take him out on bail, in Crime No.267 of 2015, by filing bail another application before the appropriate Court.

3. We have considered the above submissions.

4. It is noted from the records available that no statements had been recorded from the relatives concerned to substantiate the claim that they are taking steps to move another bail application, on behalf of the detenu, to take him out on bail, in the above said case. In such circumstances, we find that there is non-application of mind on the part of the detaining authority, in passing the detention order. Therefore, we are inclined to set aside the detention order.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 23.10.2015, passed by the second respondent is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

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

2. The Commissioner of Police
Greater Chennai Police, Chennai.

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

4. The Superintendent of Central Prison
Puzhal, Chennai.

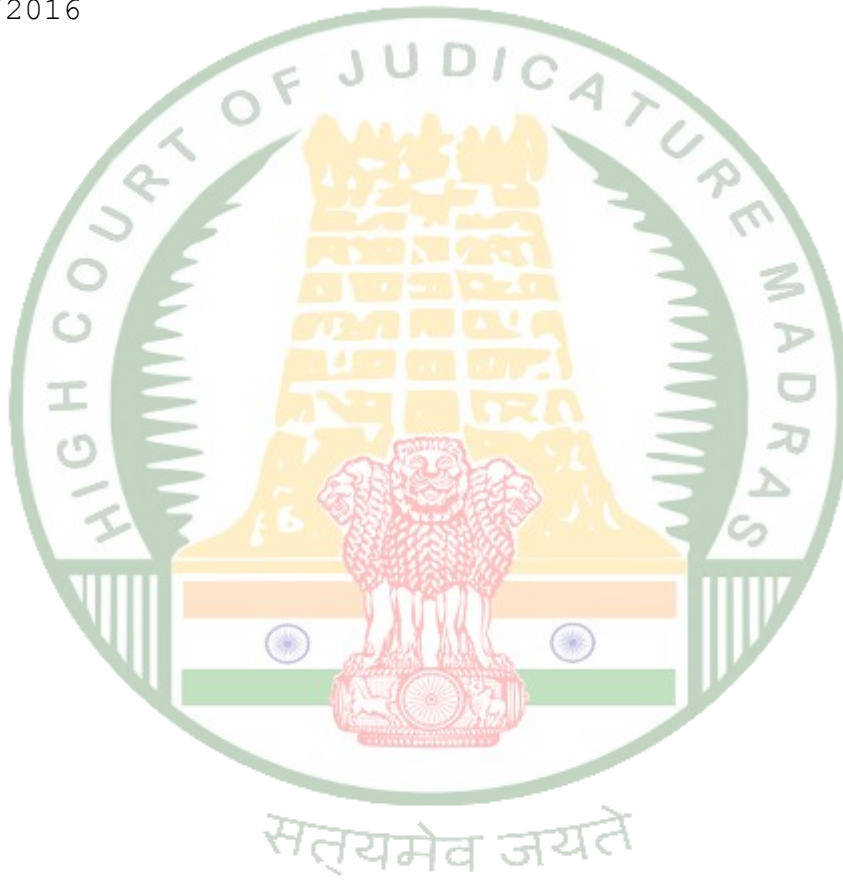
5. The Public Prosecutor,
High Court, Chennai.

6. The Judicial Magistrate No.I,
Thiruvallur.

7.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.

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srg 30/03/2016



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