

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE T.MATHIVANAN

H.C.P.No.1464 of 2016

Kanniammal

.. Petitioner

Vs

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

2.The District Collector and
District Magistrate,
Tiruvannamalai District,
Tiruvannamalai.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records in connection with the order of detention, passed by the second respondent, dated 8.7.2016, in D.O.No.23/2016-C2, against the petitioner's son Arumugam, aged about 47 years, son of Annamalai Gounder, detained in the Central Prison, Vellore, and to set aside the same and to direct the respondents to produce the detenu, before this court and to set him at liberty.

For Petitioner : Mr.S.Senthilvel

For Respondents: Mr.V.M.R.Rajentran, APP

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ORDER

[Order of the Court was made by M.JAICHANDREN, J.]

This Habeas Corpus Petition has been filed by the mother of the detenu, namely, Arumugam, aged about 47 years, son of Annamalai Gounder, to issue a Writ of Habeas Corpus, to call for the records, in D.O.No.23/2016-C2, dated 8.7.2016, passed by the second respondent, detaining the detenu, under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), branding him as a "Bootlegger", in the Central Prison, Vellore, and to quash the same and to direct the Respondents to produce the body of the detenu and to set him at liberty, forthwith.

2. We have heard the learned counsel appearing on behalf of the petitioner, as well as the learned Additional Public Prosecutor appearing for the State and we have also perused the records, carefully.

3. The learned counsel for the petitioner contends that there is a delay in submission of the contraband seized, on 17.6.2016, in the Court, relating to the case in Crime No.275 of 2016, on the file of the Kalambur Police Station. It is clear from page No.37 of the booklet furnished to the detenu that the property was seized, on 17.6.2016, as per the list of property sent to the Magistrate. But, the same was received by the Judicial Magistrate, Arni, Tiruvannamalai District, on 20.6.2016. Therefore, the learned counsel for the petitioner contends that the delay in submission of the contraband, in the Court, would cause prejudice to the detenu.

4. The said submissions made by the learned counsel appearing on behalf of the petitioner had not been refuted by the learned Additional Public Prosecutor appearing on behalf of the respondents.

5. It is noted from the records available that the contraband, relating to the case in Crime No.275 of 2016, on the file of the Kalambur Police Station, was seized, on 17.6.2016. But, the same was received by the Court concerned, only on 20.6.2016, as found in page Nos.37 and 38 of the booklet furnished to the detenu, which is the copy of the list of property sent to the Magistrate. The said fact is also not refuted by the learned Additional Public Prosecutor appearing

for the respondents. In such circumstances, as rightly pointed out by the learned counsel appearing on behalf of the petitioner, the delay in producing the property, before the concerned Judicial Magistrate Court, would give scope for manipulating the contraband seized and this delay would cause prejudice to the detenu. Therefore, we are inclined to set aside the detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 8.7.2016, 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

/TRUE COPY/

Sub-Assistant Registrar

vvk

To

- 1.The Secretary to Government,
The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
- 2.The District Collector and
District Magistrate,
Tiruvannamalai District,
Tiruvannamalai.
- 3.The Superintendent,
Central prison, Vellore,
- 4.The Joint Secretary to Government,
Public (Law & Order),
Fort Saint George, Chennai-9.
- 5.The Public Prosecutor,
High Court, Madras.

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H.C.P.No.1464 of 2016

CP(CO)
CB(20-01-2017)