

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE S.BASKARAN

H.C.P.No.950 of 2016

Kala .. Petitioner/Wife of the detenue

Vs

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

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

.. 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 pertaining to the order of detention passed by the second respondent, in Memo C3/D.O.No.25/2016, dated 13.4.2016, and to quash the same and consequently to direct the respondents herein to produce the body and person of the detenu Saravanan, son of Sendrayan, aged about 35 years, before this Court and set him at liberty, from the Central Prison, Vellore.

For Petitioner : Mr.S.Paul Gnanamuthu

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

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ORDER

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

This Habeas Corpus Petition has been filed by the wife of the detenu, namely, Saravanan, son of Sendrayan, aged about 35 years, to issue a Writ of Habeas Corpus, to call for the records, in C3/D.O.No.25/2016, dated 13.4.2016, 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 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 3.3.2016, in the Court, relating to the case in Crime No.147 of 2016, on the file of the Vaniyambadi Prohibition Enforcement Wing. It is clear from page No.39 of the booklet furnished to the detenu that the property was seized on 3.3.2016, as per the property list. But, the same was received by the Principal District Munsif-cum-Judicial Magistrate, Vaniyambadi only on 8.3.2016. 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.147 of 2016, on the file of the Vaniyambadi Prohibition Enforcement Wing, was seized on 3.3.2016. But, the same was received by the Court concerned, only on 8.3.2016, as found in page No.39 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 for 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 13.04.2016, 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/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

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,
Vellore District,
Vellore.
- 3.The Superintendent, Central Prison, Vellore.
- 4.The Joint Secretary to Govt.
Public (L&O) Fort St.George, Chennai.
- 5.The Public Prosecutor,
High Court, Madras.

vg(co)
krd 9/12

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सत्यमेव जयते
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