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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE B.GOKULDAS

HABEAS CORPUS PETITION (MD) No.49 of 2016

S.Mahamoodha Beevi,
W/o.Sikkandar,
No.46B, Alwar Thope Street,
Palakkarai, Tiruchirappalli City. .. Petitioner

Vs.

1.State of Tamil Nadu,
Rep. By its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

2.The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli. .. 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 records relating to the detention order passed by the second respondent in his proceedings C.No.44/Detention/C.P.O/TC/2015, dated 14.12.2015 and quash the same and direct the respondents to produce the body of the detenu namely Sikkandar, son of Ibrahim, aged 50 years (now detained at Central Prison, Trichy) before this Court and set him at liberty.

For Petitioner : Mr.N.Anandakumar

For Respondents : Mr.C.Ramesh
Additional Public Prosecutor

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 detention order passed in C.No.44/Detention/C.P.O/TC/2015, dated 14.12.2015 against the detenu by name Sikkandar, son of Ibrahim by the detaining authority, who has been arrayed as second respondent herein and quash the same.



2. The Inspector of Police, Prohibition Enforcement Wing, Tiruchirappalli City as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that the detenu has involved in the following adverse case:-

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Crime No.771 of 2015 Tiruchirappalli City
Prohibition Enforcement Wing registered under Sections 4
(1)(aaa) read with 4(1-A) (Transport) TNP Act, 1937.

3. Further it is stated in the affidavit that on 03.11.2015, at about 06.00 hours, the Inspector of Police and others have conducted vehicle check up and found the detenu is in possession of 140 brandy bottles, each containing 750 ml and consequently a case has been registered in Crime No.763 of 2015 under Sections 4 (1)(aaa), 4(1)(i) read with 4(1-A) (Transport) TNP Act, 1937 and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

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 chronic offender and ultimately branded him as 'Bootlegger' by way of passing the impugned detention order and in order to quash the same, the present petition has been filed by the wife of the detenu.

5. On the side of the respondents, a counter has been filed wherein it has been contended to the effect that all the averments made in the petition are false and the detaining authority, after considering the averments submitted by the sponsoring authority and other connected documents, has rightly branded him as 'Bootlegger' by way of passing the impugned order and therefore the present petition deserves to be dismissed.

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. Per contra, the learned Additional Public Prosecutor appearing for the respondents has represented that the representation submitted on the side of the detenu has been duly disposed of without delay and therefore the detention order in question does not call for any interference.

8. On the side of the respondents, a proforma has been submitted wherein it has been clearly stated that in between Column Nos.9 and 10, six clear working days are available and in between Column Nos.12 and 13, fourteen clear working days are available and no explanation has been given on the side of the



respondents with regard to such delay and the same 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.

9. In fine, this Habeas Corpus Petition is allowed and the detention order passed in C.No.44/Detention/C.P.O/TC/2015, dated 14.12.2015 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Sikkandar, son of Ibrahim at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar
Madurai Bench of Madras High Court,
Madurai.

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To

- 1.The Secretary to Government, State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
- 2.The Commissioner of Police,
Tiruchirappalli City, Tiruchirappalli.
- 3.The Superintendent of Prison, Central Prison, Trichy.
(In duplicate for communication to detenu)
- 4.The Joint Secretary to Government, Public (Law & Order)
For Saint George, Chennai-9
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 cc to Mr.N.Anandakumar, Advocate, SR No.20502

RG.JGB-DP/AR-I 13.04.2016 3P.8C

ORDER MADE IN
H.C.P (MD) No.49 of 2016
11.04.2016