



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2016

CORAM :

**THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

HABEAS CORPUS PETITION (MD) No.907 of 2016

T.Sangeetha

... Petitioner

Vs.

- 1) 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,
O/o. The District Collector and District Magistrate,
Nagapattinam District,
Nagapattinam.
- 3) The Superintendent,
Special Prison for Women,
Tiruchirappalli.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to call for the entire records in detention order passed in C.O.C.No.51/2016, dated 04.07.2016 on the file of the second respondent herein and set aside the same as illegal and to direct the respondents to produce the body or person of the petitioner's mother, namely Meena, W/o.Thangaiyan, aged about 40 years, who is detained in Special Prison for Women, Tiruchirappalli, before this Hon'ble Court and set her at liberty.

For Petitioner	: Mr.K.A.S.Prabhu
For Respondents	: Mr.T.Mohan
	Additional Public Prosecutor

O R D E R

(Order of the Court was made by V.M.VELUMANI, J.)

<https://hcservices.ecourts.gov.in/hcservices/> Daughter of the detainee has sought of a Writ of Habeas Corpus, to call for the entire records pertaining to the proceedings of the 2nd respondent in C.O.C.No.51/2016, dated 04.07.2016, quash the same,



and set her mother, namely Meena, W/o.Thangaiyan, aged about 40 years, at liberty.

2. The petitioner is the daughter of the detenue. From the grounds of detention, it is seen that the detenue has involved in the following adverse cases:

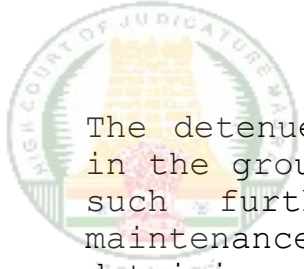
"(i) Crime No.920 of 2015 on the file of Nagapattinam P.E.W. registered u/s.4(1)(aaa) r/w 4(1-A) TNP Act, 1937.

(ii) Crime No.1015 of 2015 on the file of Nagapattinam P.E.W. registered u/s.4(1)(aaa) r/w 4(1-A) TNP Act, 1937.

(iii) Crime No.125 of 2016 on the file of Nagapattinam P.E.W. registered u/s.4(1)(aa) r/w 4(1-A) TNP Act, 1937.

(iv) Crime No.207 of 2016 on the file of the Nagapattinam P.E.W. registered u/s.4(1)(aaa) r/w 4(1-A) TNP Act, 1937."

3. The grounds of detention further stated that on 12.06.2016, the Inspector of Police, Prohibition Enforcement Wing, Vedaraniyam, conducted a raid and found that the detenue was selling illicit arrack from a lorry tube to some unknown persons. On seeing the Police party, the unknown persons, who had come to consume illicit arrack, ran away. The detenue also tried to run away. But, she was apprehended by the police party. During inspection, the detenue was found in possession of 120 litres capacity lorry tube with about 116 litres of Puducherry arrack in it. When smelt the arrack emanated poisonous odour resulting in irritation to eyes and bad smell, the Inspector of Police arrested the detenue in the presence of the witnesses. When he enquired the detenue, she confessed that she had mixed the arrack with some drug substance to boot kick and to earn more profit. A case has been registered against the detenue in Crime No.548/20416, u/s.4(1)(i), 4(1)(aaa), r/w. 4(1-A) T.N.P. Act 1937. The detenue was searched and handed over to Women P.C. Sentry for custody. The samples of arrack and seized articles in the above said case were produced before the Court on 12.06.2016 and sample arrack bottles were sent for Chemical Analysis on 17.06.2016 through the Judicial Magistrate Court No.I, Nagapattinam. The Chemical Analysis Report, dated 21.06.2016 was produced in the Court on 23.06.2016. It is stated that the sample bottles contained Ethyl Alcohol, Acids, Esters, Higher Alcohol and Aldehydes and it is a diluted spirit. Further, the arrack in the sample bottles contains 7.1% m.g. of Atropine per 100 m.l, which is dangerous to the health condition to the persons to consume the same. The detenue is also a Prohibition Rowdy Sheeter vide H.S.No.03/2016, dated 15.01.2016 in Prohibition Enforcement Wing, Nagapattinam and she was produced before the learned Judicial Magistrate No.I, Nagapattinam, on 12.06.2016 and remanded in Sub-Jail for Women, Tiruvarur, as a remand prisoner on the same day itself and she is in remand in connection with the case in Cr.No.54/2016 on the file of Nagapattinam Prohibition Enforcement Wing. The detenue filed a petition in Cr.M.P.No.1946/2016 for bail before the Judicial Magistrate Court No.I, Nagapattinam, in connection with the above case and the same was pending on the date of order of detention.



The detinue or the petitioner herein may move the bail application in the ground case. If she is enlarged on bail, she will indulge in such further activities, which will be prejudicial to the maintenance of public order and public health and therefore, the detaining authority has arrived at subjective satisfaction that there is a real possibility of detinue coming out on bail in the ground case and accordingly, passed the order of detention.

3. The learned counsel for the petitioner submitted that the order of detention is based on the misleading facts and discrepancies in the records. The translated version of vital documents relied upon by the detaining authority was not furnished to the detinue and therefore, she could not make effective representation. In spite of the same, the detinue made a representation dated 18.07.2016 and the same was received by the detaining authority on 21.07.2016 and the same was rejected by him only on 11.08.2016 after considerable delay of 13 days and therefore, he prayed for quashing the order of detention and to set the petitioner at liberty.

4. Mr.T.Mohan, learned Additional Public Prosecutor submitted that the detaining authority with due and proper application of mind, has passed the order of detention and prays for dismissal of the Habeas Corpus Petition.

5. We have carefully perused all the materials available on record and considered the arguments advanced by the learned counsel appearing for the parties.

6. A perusal of the proforma produced would disclose that the petitioner made a representation dated 18.07.2016. The detaining authority received the same on 21.07.2016 and remarks were called for on the same day and the remarks were received on 04.08.2016 with a delay of 13 days, leaving aside the six days holidays between these dates, there is a delay of 7 days, which remains unexplained by the detaining authority and that itself would affect rights of the detinue guaranteed under Article 22(5) of the Constitution of India and therefore, the detention order in question is liable to be quashed.

7. In the result, the Habeas Corpus Petition is allowed and the impugned order of Detention in C.O.C.No.51 of 2016, dated 04.07.2016, passed by the second respondent is set aside. The detinue, by name, Meena, W/o.Thangaiyan, is directed to be set at liberty, unless her presence or detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-I)

/True Copy/



To

- 1) The Secretary,
The Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
- 2) The District Collector and District Magistrate,
O/o. The District Collector and District Magistrate,
Nagapattinam District,
Nagapattinam.
- 3) The Superintendent,
Special Prison for Women,
Tiruchirappalli.
- 4) The Joint Secretary to Government,
Public (Law & Order)
Fort St. George, Chennai.
- 5) The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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TE/DB : 21/10/2016 : 4P/6C

H.C.P. (MD) No.907 of 2016
03.10.2016