

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.09.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE P.KALAIYARASAN

H.C.P.No.1006 of 2017

S.Malliga

.. Petitioner

Vs

1.The State of Tamil Nadu
Rep. By its Secretary to Govt (Home)
Prohibition and Excise Department
Fort St. George
Chennai – 600 009

2. The Commissioner of Police
Greater Chennai
Office of the Commissioner of Police
Vepery
Chennai – 600 007

3.Separate Union of India
Secretary to Government of India
Departmental Food and Consumer
New Delhi

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, calling for the records relating to the impugned order of detention passed by the 2nd respondent in Memo No.3/Black Marketing Act/2017 dated 21.04.2017 and set aside the same and consequently direct the respondents to produce the detenu Prabhu @ Janakiraman, aged about 33 years, petitioner's son now confined at Central Prison, Puzhal-I,

Chennai before this Court and set him at liberty.

For Petitioner : Mr.S.Santhanam

For Respondents : Mr.V.M.R.Rajentren
Additional Public Prosecutor for R1 and R2
Mr.S.Arockiam
Central Govt. Standing Counsel for R3

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 the records relating to the detention order passed in Memo No.03/2017 dated 21.04.2017, against the detenu by name, Prabhu @ Janakiraman, aged 33 years, S/o.Shanmuganandan, No.870, R.R.Nagar, Kodungaiyur, Chennai- 600 118 and quash the same.

2. The Inspector of Police, Civil Supply CID, Chennai Unit, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein it is averred that the detenu has involved in the following adverse cases:

1) Civil Supplies CID, Chennai Unit, Crime No.29 of 2015, registered under Section 6(4) of TNSC (RDCS) Order 1982 r/w.7(1)(a)(ii) of E.C Act 1955; and

2) Civil Supplies CID, Vellore Unit, Crime No.52 of 2017, registered under Section 6(4) of TNSC (RDCS) Order 1982 r/w.7(1)(a)(ii) of E.C Act 1955;

3. Further it is averred that on 09.04.2017 on the basis of secret

information, one Rajeswari, Inspector of Police, Civil Supplies CID, Chennai Unit and other officials have conducted vehicle check up in Redhills Road, Thiruvallur Road and G.N.T Road and near bush they found a vehicle bearing Registration No.TN-22-AJ-0472 and also they found a person unloading two gunny bags of PDS rice, each weighing 50 Kgs and after observing due formalities, they registered a case in Crime No.105 of 2017 under Sections 6(4) of TNSC (RDCS) Order 1982 r/w.7(1)(a)(ii) of EC Act, 1955 and ultimately requested the Detaining Authority to invoke the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act 7 of 1980) against the detenu.

4. The Detaining Authority, after considering the averments made in the affidavit and other connected materials, has derived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded her as "Black Marketer" by way of passing the impugned Detention Order and in order to quash the same, the present petition has been filed by the mother of the detenu, as petitioner.

5. On the side of the respondents, counter has not been filed. Under such circumstance, this Habeas Corpus Petition is disposed of on merits on the basis of available materials on record.

6. The learned counsel appearing for the petitioner has contended to the

effect that the detenu has been supplied with a booklet wherein at Page Nos.78 and 79 Remand Extension Order is available, but in Tamil version, erroneous crime number has been given and the same would cause prejudice to the detenu and therefore, the detention order in question is liable to be quashed.

7. The learned Additional Public Prosecutor has contended that in the booklet all copies of vital documents have been properly given and no prejudice would be caused to the detenu and therefore, the contention urged on the side of the petitioner is liable to be rejected.

8. In fact this Court has perused Page Nos.78 and 79 and as rightly pointed out on the side of the petitioner in Tamil version, erroneous crime number has been given. Since in Tamil version of the Remand Extension Order erroneous crime number is given, the same would really affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 21.04.2017 passed in Memo No.03/2017 by the second respondent against the detenu by name, Prabhu @ Janakiraman, aged 33 years, S/o.Shanmuganandan, No.870, R.R.Nagar, Kodungaiyur, Chennai- 600 118 is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

[A.S., J.]

[P.K., J.]

05.09.2017

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To

- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
- 2.The Secretary to Govt (Home)
Prohibition and Excise Department
Fort St. George
Chennai – 600 009
3. The Commissioner of Police
Greater Chennai
Office of the Commissioner of Police
Vepery
Chennai – 600 007
- 4.Separate Union of India
Secretary to Government of India
Departmental Food and Consumer
New Delhi
- 5.The Superintendent
Central Prison
Puzhal, Chennai
[in duplicate for communication to the detenu]
- 6.The Public Prosecutor,
High Court, Madras.

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A.SELVAM, J.
and
P.KALAIYARASAN, J.

gpa



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