

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.09.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE S.BASKARAN

H.C.P.No.1008 of 2017

Tmt.S.Jayakumari

.. Petitioner/
Wife of the detenue

Vs

1. The Principal Secretary to Government
Cooperation Food and Consumer Protection Department
2nd Floor, Namakkal Kavignar Maligai
Secretariat, Chennai - 600 009
2. The District Collector and
District Magistrate,
Erode District, Erode
- 3.The Additional Secretary to Government of India
Ministry of Consumer Affairs
Food and Public Distribution
(Department of Consumer Affairs)
Room No.270, Krishi Bhavan
New Delhi - 110 001

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, calling for the records in connection with the order of detention passed by the second respondent dated 13.05.2017 in Cr.M.P.No.12/Black Marketeer/2017 C1 against the petitioner's husband, Sellakutti, son of Late Selladurai, aged about 54 years, who is confined at Central Prison, Coimbatore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.V.Paarthiban

For Respondents : Mr.V.M.R.Rajentren
Additional Public Prosecutor for
R1 and R2

Mr.S.Arockiam
Central Govt. Standing Counsel
for R3

O R D E R

[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 Cr.M.P.No.12/Black Marketeer/2017 C1 dated 13.05.2017, against the detenu by name, Sellakutti, aged 54 years, Son of (Late) Selladurai, residing at Door No.445, Rotary Colony, Kuruppanaickenpalayam Village, Bhavani Taluk, Erode District and quash the same.

2. The Inspector of Police, Civil Supplies Criminal Investigation Department, Erode, 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:

i) Erode Civil Supplies Criminal Investigation Department, Crime No.86 of 2016, registered under Section 6(4) of TNSC (RDCS) Order 1982 r/w.7(1)(a)(ii) of Essential Commodities Act 1955;

ii) Erode Civil Supplies Criminal Investigation Department, Crime No.34 of 2017, registered under Section 6(4) of TNSC (RDCS) Order 1982 r/w.7(1)(a)(ii) of Essential Commodities Act 1955; and

iii) Erode Civil Supplies Criminal Investigation Department, Crime No.35 of 2017, registered under Section 6(4) of TNSC (RDCS) Order 1982 r/w.7(1)(a)(ii) of Essential Commodities Act 1955.

3. Further it is averred that on 22.04.2017, Inspector of Police, Civil Supplies Criminal Investigation Department, Erode Unit and others have conducted surveillance in Bhavani New Bus Stand to Kumarapalayam Road and ultimately found the detenu in possession of 20 bags of PDS rice and consequently, a case has been registered in Crime No.50 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 him 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 wife of the detenu, as petitioner.

5. In the counter filed on the side of the respondents it has been contended to the effect that most of the averments made in the petition are false. The Sponsoring Authority has supplied all the relevant materials to the Detaining Authority. The Detaining Authority after perusing all the materials, has arrived to a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as "Black Marketeer" by way of passing the impugned Detention Order and the same does not call for any interference and therefore, the present petition deserves to be dismissed.

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been given, but the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. Learned Additional Public Prosecutor has contended that the representation given on the side of the detenu has been disposed of without delay and therefore, the contention put forth on the side of the petitioner is liable to be rejected.

8. On the side of the respondents, a proforma has been submitted, wherein, it has been clearly stated that in between column Nos.7 to 9, 9 clear working days are available. Likewise, in between column Nos.12 and 13, 3 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 dated 13.05.2017 passed in Cr.M.P.No.12/Black Marketeer/2017 C1 by the second respondent against the detenu by name, Sellakutti, aged 54 years, Son of (Late) Selladurai is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

gpa

To

- 1.The Principal Secretary to Government
Cooperation Food and Consumer Protection Department
2nd Floor, Namakkal Kavignar Maligai
Secretariat, Chennai - 600 009
 2. The District Collector and
District Magistrate,
Erode District, Erode
 - 3.The Additional Secretary to Government of India
Ministry of Consumer Affairs
Food and Public Distribution
(Department of Consumer Affairs)
Room No.270, Krishi Bhavan
New Delhi - 110 001
 - 4.The Superintendent
Central Prison
Coimbatore
[in duplicate for communication to the detenu]
 - 5The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
 - 6.The Public Prosecutor,
High Court, Madras
- +1cc to Mr.S.Arockiam, Advocate sr. 65695

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H.C.P.No.1008 of 2017

RSY (CO)
VR(11/09/2017)

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