

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. No.1480 of 2017

Tmt.Subbulakshmi

... Petitioner

-Vs-

1. State of Tamil Nadu
Rep.by its Secretary to Government
Co-operation, Food and Consumer
Protection Department,
Secretariat, Chennai - 600 009.

2. The Commissioner of Police
Greater Chennai Police
Chennai 600007.

3. Additional Secretary
Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
(Department of consumer affairs)
Room No.270, Krish Bhavan,
New Delhi 110001

.... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records, relating to Petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order dated 21.07.2017 on the file of the second respondent herein made in proceedings No.5/2017 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's husband namely Mariappan s/o Arunachalam, aged 40 years before this Court and set the petitioner's husband at liberty from detention, now petitioner husband namely Mariappan, S/o Arunachalam aged 40 years before this Court and set the petitioner's husband at liberty from detention, now petitioners husband detained in Central Prison-II, Puzhal, Chennai-600066.

For Petitioner : Mr. C.C. Chellappan

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

Additional Public Prosecutor for

R1 & R2

Mr.S.Arockiam
CGSC for R3

O R D E R

[Order of the Court was made by N.SATHISH KUMAR, J.]

The petitioner is the wife of the detenu, namely, Mariappan aged 40 son of Arunachalam. The detenu has been detained by the 2nd respondent by his order in No.5/2017 dated 21.07.2017, holding him to be a "Black Marketeer". The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. The learned counsel appearing for the petitioner would submit that the bail petitions filed by the detenu are pending. However, the detaining authority has come to the conclusion that there is real possibility of the detenu coming out on bail in all the cases, without considering the nature of the offences. Learned counsel further submits that the detaining authority has passed the detention order without relevant records. He would further submit that the detenu knows Tamil only to read and understanding. The non-furnishing of Tamil translation for grounds of detention caused prejudice to him. Because of this the detenu could not make an effective representation. The learned counsel further submitted that in the Quality Certificate produced in the ground case in C.S.C.I.D. Chennai unit Cr.No.180/2017 the Deputy Manager, Tamil Nadu Civil Supplies Corporation Ltd., Chennai has not specifically stated the quality of the rice and the detaining without perusing the material evidence not seeking any clarification in this regard has passed the detention order due to non-application of mind. Hence he submitted that on the above grounds the detention order is vitiated.

4. Per contra, the learned Additional Public Prosecutor would submit that the order of detention has been passed on cogent and sufficient materials and the same cannot be interfered with at the instance of the petitioner.

5. Though the bail application was pending, the detaining authority has taking into consideration of similar cases of the year 2015 i.e., Cr.No.160/2015 come to the conclusion that there was a real possibility of the detenu coming out on bail. Such conclusion is nothing but merely non application of mind. Further the quality certificate also does not show the nature and quality of rice. The detenu was arrested on 8.7.2017 and

the detention order was passed on 21.07.2017. In this case notice was issued on 10.8.2017. Since then, no counter affidavit was filed. Therefore, there is no explanation, on record, for the delay in not passing the detention order. Therefore, on the above grounds, the detention order is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.5/2017 dt.21.07.2017, passed by the 2nd respondent is set aside. The detenu, namely, Mariappan Male aged 40 years, s/o Arunachalam is directed to be released forthwith unless his detention is required in connection with any other case. Given the nature of the case, this order will be communicated to the concerned Jail Superintendent by the Registrar General of this Court via Fax.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

ggs

To:

1. The Secretary to Government,
Food and Consumer Protection Department
2nd Floor, Namakkal Kavingar Maligai,
Secretariat, Chennai 600 009.
 2. The Commissioner of Police, Greater Chennai Police
Chennai 600007.
 3. The Additional Secretary to Government, Government of India,
Ministry of Consumer Affairs, Food and Public Distribution,
(Department of consumer affairs) Room No.270, Krish Bhavan,
New Delhi 110001.
 4. The Superintendent, Central Prison-II, Puzhal, Chennai.
 5. The Public Prosecutor, Madras High Court, Madras.
- +1 cc to Mr.S.Arockiam, CGSC, sr 73798.

H.C.P.No. 1480 of 2017

SVI (CO)
sp(24/10/2017)