

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.08.2017

CORAM

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

H.C.P.No.786 of 2017

Y.Sabari

.. Petitioner/Brother of
the detenue

Vs

1.The Secretary to Government
Department of Consumer affairs
Government of India, "Krishi Bhavan"
New Delhi - 110 001

2.The Secretary to the Government
Co-operation Food and Consumer
Protection Department
Secretariat
Chennai - 600 009

3.The District Collector and
District Magistrate
Krishnagiri District
Krishnagiri

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records in S.C.No.06 of 2017 (CS) dated 13.02.2017 on the file of the District Magistrate and District Collector, Krishnagiri District and quash the same as illegal and direct the respondent to produce the detenu Mahendran @ Sabari, aged 34 years, S/o.Yuvaraj @ Balaji, now confined at Central Prison, Salem and set him at liberty.

For Petitioner : Mr.Selthil Vel

For Respondents : Mr.S.Arockiam
Central Govt. Standing Counsel
for R1

Mr.V.M.R.Rajentren
Addl. Public Prosecutor for R2&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 S.C.No.06 of 2017 (CS) dated 13.02.2017, against the detenu by name, Mahendran @ Sabari, aged 34 years, S/o.Yuvaraj @ Balaji, residing at Santhur Village and Post, Pochampalli Taluk, Krishnagiri District and quash the same.

2. The Civil Supply CID, Krishnagiri District, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that the detenu has involved in the following adverse case:

1. Vellore Civil Supply CID, Crime No.186/2016, registered under Section 6(4) of TNSC (RDCS) order of 1982 r/w. 7(1)a(ii) of EC Act, 1955;

3. Further, it is averred in the affidavit that on 02.02.2017, the Civil Supplies CID, Krishnagiri and others have made vehicle check up with regard to smuggling of PDS Rice and they intercepted a vehicle bearing Registration No.TN-76-C-0780 and checked the same and ultimately found PDS rice and consequently, a case has been registered against the detenu and others in Crime No.19 of 2017 under Sections 6(4) of TNSC (RDCS) of 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 brother of the detenu, as petitioner.

5. Even though this Habeas Corpus Petition has been posted for filing counter on the side of the respondents, counter has not been filed. Under such circumstance, this petition is disposed of on merits on the basis of available records.

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been submitted, 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. Under the said circumstances, 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 and 9, twenty 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 13.02.2017 passed in S.C.No.06/2017 (CS) by the third respondent against the detenu by name, Mahendran @ Sabari, aged 34 years, S/o.Yuvaraj @ Balaji, residing at Santhur Village and Post, Pochampalli Taluk, Krishnagiri District is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
2. The Secretary to Government
Ministry of Consumer affairs
Government of India, "Krishi Bhavan"
New Delhi - 110 001
3. The Secretary to the Government
Co-operation Food and Consumer
Protection Department
Secretariat
Chennai - 600 009
4. The District Collector and
District Magistrate
Krishnagiri District
Krishnagiri
5. The Superintendent
Central Prison
Salem
6. The Public Prosecutor,
High Court, Madras.
7. The Secretary to Government
Home, Prohibition and Excise Department
Fort St. George Chennai-9

+1 cc to Mr/s.Arockiam Advocate sr 55458

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