

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2017

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE T.MATHIVANAN

H.C.P.No.1700 of 2016

P.Damodharan

.. Petitioner

Vs

1.The 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,
Vellore District,
Vellore.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records pertaining to the order of detention passed by the second respondent, in Memo C3/D.O.No.41/2016, dated 19.07.2016, and to quash the same and consequently to direct the respondents herein to produce the body of the petitioner's brother Margabandu, aged about 28 years, S/o.Pachaiyappan before this Court and set him at liberty.

For Petitioner : Mr.R.Subhadra Devi

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

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ORDER

[Order of the Court was made by **T.MATHIVANAN, J.**]

This Habeas Corpus Petition has been filed by the brother of the detenu, namely, Margabandu, aged about 28 years, S/o.Pachaiyappan, to issue a Writ of Habeas Corpus, to call for the records, in C3/D.O.No.41/2016, dated 19.07.2016, passed by the second respondent, detaining the detenu, under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), branding him as a “Bootlegger”, in the Central Prison, Vellore, and to quash the same and to direct the Respondents to produce the body of the detenu and set him at liberty forthwith.

2. We have heard the learned counsel appearing on behalf of the petitioner, as well as the learned Additional Public Prosecutor appearing for the State and we have also perused the records, carefully.

3. The learned counsel for the petitioner contends that there is a delay in production of the contraband before the Court, which seems to have been seized, on 24.06.2016, relating to the case in Crime No.196 of 2016, on the file of the Rathinagiri Police Station. It is clear from page No.40 of the

booklet furnished to the detenu that the property was seized on 24.06.2016, as per the property list. But, the same was received by the District Collector and District Magistrate of Vellore District, Vellore only on 13.07.2016. Therefore, the learned counsel for the petitioner contends that the delay in submission of the contraband before the Court had caused prejudice to the detenu.

4. The said submissions made by the learned counsel appearing on behalf of the petitioner has not been refuted by the learned Additional Public Prosecutor appearing on behalf of the respondents.

5. In such circumstance, as rightly pointed out by the learned counsel for the petitioner, the delay in producing the property before the concerned Judicial Magistrate Court, would give scope for tampering with the contraband seized and this delay would definitely cause prejudice to the detenu. Therefore, we are inclined to set aside the detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 19.07.2016, passed by the second respondent is set aside. The detenu is directed to be released, forthwith, unless his presence is required in connection with any other case.

[M.J.,J.] [T.M.,J.]

06.02.2017

gpa

To

- 1.The Secretary to Government,
The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
- 2.The District Collector and
District Magistrate,
Vellore District,
Vellore.
- 3.The Public Prosecutor,
High Court, Madras.

**M.JAICHANDREN,J.
AND
T.MATHIVANAN, J.**

GPA

H.C.P.No.1700 of 2016

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