

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2017

CORAM

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

H.C.P.No.2153 of 2016

Shaila Jhon

.. Petitioner

Vs.

1.State of Tamil Nadu,
Rep. By it Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

2.The District Magistrate
and District Collector,
Nilgiris District,
Udhagamandalam.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus to call for the entire records relating to petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 30.07.2016 on the file of the second respondent herein made in proceedings Cr.M.P.No.6/2016 (Immoral Traffic Offender) and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's husband namely Sham (a) Salaudheen son of Hamsa, aged 40 years before this Court and set petitioner's husband namely Sham (a) Salaudheen son of Hamsa, aged 40 years before this Court and set the petitioner's husband at liberty from detention, now the petitioner's husband detained at Central Prison, Coimbatore.

For Petitioner : Mr.V.Paarthiban

For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.NAGAMUTHU, J.]

The petitioner, who is the wife of the detenu Sham (a) Salaudheen son of Hamsa, aged 40 years, has come forward with this petition challenging the detention order passed by the second respondent, dated 30.07.2016, against her husband branding him as a "Immoral Traffic Offender" under 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].

2.We have heard the learned counsel counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents and we have also perused the records carefully.

3.Admittedly, the detenu does not know to read and write in English. However, the documents furnished to the detenu which are vital, upon which, reliance has been made by the detaining authority, are in English and the same have not been translated into Tamil and furnished to the detenu. This according to the learned counsel for the petitioner caused serious prejudice to the detenu in making effective representation, to the authorities, against the order of detention.

4.We find force in the said argument of the learned counsel for the petitioner. In our considered view, non supply of translated copies of the vital documents to the detenu would cause serious prejudice to him. Thus, the detention order is vitiated. On this ground, the impugned detention order is liable to be quashed.

5.It is a trite law that, personal liberty protected under Article 21, is so sacrosanct and so high in the scale of Constitutional values that, it is the obligation of the detaining authority to show that the impugned detention meticulously accords with the procedure established by law. Preventive detention is preventive and not punitive. When ordinary law of the land is sufficient to deal with, taking recourse to the preventive detention law is illegal.

6.In the light of the above facts and law, we have no hesitation in quashing the order of detention on the above mentioned ground.

7.Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in Cr.M.P.No.6/2016 dated 30.07.2016 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.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

jbm

To

- 1.Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The District Magistrate
and District Collector,
Nilgiris District,
Udhagamandalam.
- 3.The Superintendent,
Central prison,Coimbatore.
- 4.The Joint Secretary to Government,
Public (Law & Order)
Fort Saint George, Chennai-9.
- 5.The Public Prosecutor,
High Court, Madras.

सत्यमेव जयते

H.C.P.No.2153 of 2016

GJ(CO)
VR(06/06/2017)

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