



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.(MD) No.382 of 2017

D.Akila

... Petitioner

-vs-

1.The State of Tamil Nadu,represented by
The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort.St.George, Chennai - 600 009.

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Nagapattinam District,
Nagapattinam.

3.The Superintendent,
Special Prison for Women,
Tiruchirappalli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records in Detention Order passed in C.O.C.No.12 of 2017, dated 2.3.2017 on the file of the second respondent herein and to set aside the same as illegal and to direct the respondents to produce the body or person of the Petitioner's mother namely Paramu, Wife of Baskar, aged about 41 years, who is detained in Special Prison for Women, Tiruchirappalli before this Court.

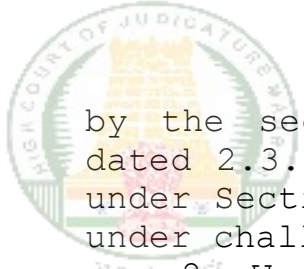
For Petitioner : M/s.K.A.S.Prabhu

For Respondents : Mr.C.Ramesh
Addl. Public Prosecutor

O R D E R

[Order of the Court by M.M.SUNDRESH, J.]

<https://hcservices.eprints.gov.in/hcservices/>
The petitioner is the daughter of the detainee, namely, Paramu, Wife of Baskar, aged about 41 years. The detainee has been detained



by the second respondent by his order in C.O.C.No.12 of 2017, dated 2.3.2017 holding him to be a "Boot Legger", as contemplated under Section 2(b) of Tamil Nadu Act 14 of 1982. 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 for the petitioner would submit that on the date of arrest there is no remand order. The remand expired on 01.03.2017 and the detention order was passed on 02.03.2017. He further submitted that in the grounds of detention that there is a non-application of mind, as much as the Detaining Authority has stated that a bail application is likely to be filed and the same is already pending. To substantiate his case, the learned counsel for the Petitioner placed reliance on a decision in *Lakshminarayanan .vs. Secretary to Government(Home), Prohibition and Excise Department, Secretariat, Chennai - 600 009 and another reported in (2014) 2 MLJ(Crl) 173*. Thus, we are of the view that there is a non-application of mind.

4. Per contra, the learned Additional Public Prosecutor while reiterating the averments in the counter affidavit 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. On a perusal of the impugned order of detention, we find that the Detaining Authority has stated that there was a real possibility of the detainee coming out on bail. Admittedly, at the time of passing the Detention Order, no bail application was pending. Though the detaining authority has made reliance on similar cases in which accused were granted bail, the facts involved in those cases are different. Hence, there is no material to substantiate that there is real possibility of the detainee coming out on bail and the said order was passed mechanically without application of mind. Therefore, on this ground, 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 C.O.C.No.12 of 2017, dated 2.3.2017, passed by the second respondent is set aside. The detainee, namely, Paramu, Wife of Baskar, aged about 41 years, is directed to be released forthwith unless her detention is required in connection with any other case.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub-Assistant Registrar



To:

1. The Principal Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort.St.George, Chennai - 600 009.
2. The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Nagapattinam District,
Nagapattinam.
3. The Superintendent,
Special Prison for Women,
Tiruchirappalli.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
5. The Joint Secretary to Government,
Public (Law and Order)
Fort Saint George, Chennai-9

Vsn

RL/6C/3P/SKN/RSK/SAR1/6/9/2017

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