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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

H.C.P(MD)No.430 of 2017

T.Udhayakala

... Petitioner

Vs.

1.The District Collector,
Collectorate,
Ramanathapuram District.

2.The Superintendent of Police,
Q Branch CID,
Office of the Q Branch CID,
Chennai - 4.

3.The Superintendent of Police,
Office of the Superintendent of Police,
Ramanathapuram.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus directing the respondents to produce the person or the body of the detenu/the petitioner's next friend and co-refugee, namely, Natarajan, son of Arumugam, aged about 51 years, before this Court and set him at liberty forthwith.

For Petitioner : Mr.A.Rajini

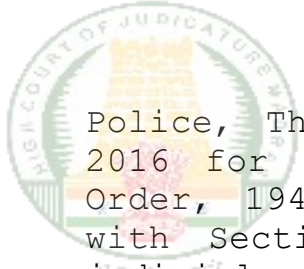
For Respondents : Mr.C.Mayil Vahana Rajendran
Additional Public Prosecutor

ORDER

(Order of the Court was made by **T.S.SIVAGNANAM, J.**)

This petition has been filed by the next friend and co-refugee of the detenu - Natarajan, son of Arumugam, aged about 51 years, to set him at liberty.

2. The detenu is basically a Srilankan refugee, who came along with the group of refugees and tried to travel to Srilanka on 08.01.2016 without Passport and proper travel documents. Based on the said charge, the detenu was detained by the Sub Inspector of



Police, Thanuskodi Police Station in connection with Cr.No.4 of 2016 for the offences under Section 5(1)(b) of the Foreigners Order, 1948 and Section 13(1) of the Foreigners Act, 1946 read with Section 14 of the Foreigners Act, 1946 and remanded to judicial custody.

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3. The case was tried by the learned Judicial Magistrate, Rameshwaram in C.C.No.39 of 2016 and he was convicted to undergo the sentence of 4 months and 15 days of imprisonment. The detenu has undergone the sentence and is now kept in Rameshwaram Special Camp.

4. The petitioner is before this Court pleading the case of the detenu, who wants to go to his native country, namely, Srilanka.

5. The counter affidavit filed by the District Collector, Ramanathapuram District, shows that the detenu has been lodged under Mandapm Refugee Camp as per the order passed by the learned Judicial Magistrate, Rameshwaram.

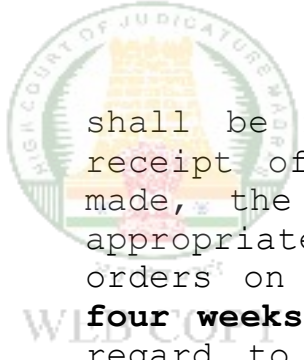
6. We have heard the learned Counsel for the petitioner and learned Additional Public Prosecutor appearing for the respondents.

7. It is not in dispute that the detenu is a Srilankan national and at present, he has been detained in Mandapam Refugee Camp.

8. The learned Additional Public Prosecutor appearing for the respondents, on instructions, would submit that if the detenu wants to go back to his country, then, he must make a request for the same and such request has to be considered in accordance with procedures laid down, namely, clearance has to be obtained from Q Branch, etc. Apart from that, the detenu is also required to pay overstaya fee, apart from producing valid one-way flight ticket to Srilanka and after considering all the documents and report and if there are no adverse remarks, then the Competent Authority will pass orders in accordance with law.

9. The learned Counsel for the petitioner would submit that the detenu should not be compelled to pay overstaya fee as it is never the intention of the detenu to stay in India and this aspect of the matter may also be considered by the Competent Authority while considering the request to be made by the detenu for his exit out of India.

10. In the light of the above, we direct the detenu to submit a request to the Competent Authority through the Superintendent of Police, Ramanathapuram District, for permitting him to go to his country, namely, Srilanka and such representation



shall be made within a period of **two weeks** from the date of receipt of a copy of this order. On such representation being made, the third respondent shall process the same and obtain appropriate reports from necessary Agencies and pass appropriate orders on merits and in accordance with law within a period of **four weeks** from the date of receipt of such representation. With regard to the demand for overstaying fee, the third respondent shall take note of the observations made by us in the preceding paragraphs.

11. Accordingly, this Habeas Corpus Petition is disposed of as above.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

- 1.The District Collector,
Collectorate,
Ramanathapuram District.
- 2.The Superintendent of Police,
Q Branch CID,
Office of the Q Branch CID,
Chennai-4.
- 3.The Superintendent of Police,
Office of the Superintendent of Police,
Ramanathapuram.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.A.Rajini, Advocate, SR.58231

H.C.P (MD) No.430 of 2017
02.06.2017

RSB/GSP
KK/SV MMS/SAR4-05.06.2017-3P-6C