



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2017

CORAM:

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

H.C.P.(MD) No.614 of 2017

Nirmala

... Petitioner

-vs-

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

2. The District Collector and District Magistrate,
Tiruchirappalli District,
Trichy.

3. The Superintendent,
Central Prison,
Tiruchirappalli.

... Respondents

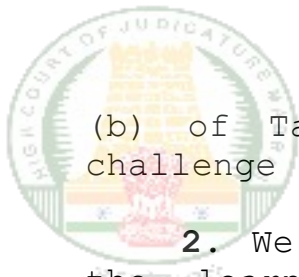
PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records relating to the Detention Order passed by the 2nd Respondent in Cr.M.P.No.07/2017, dated 11.04.2017 and quash the same and direct the Respondents to produce the body or person of the Detenu namely Emperumal, Son Sakkarathalvar aged about 53 years (now detained at Central Prison, Tiruchirappalli) before this Hon'ble Court and set him at liberty forthwith.

For Petitioner : Mr.K.Gandhi Kumar
For Respondents : Mr.C.Ramesh
Additional Public Prosecutor

O R D E R

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

The petitioner is the wife of the detenu, namely, Emperumal, aged about 53 years. The detenu has been detained by the second respondent by his order in Cr.M.P.No.7 of 2017, dated 11.04.2017 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 10.04.2017 and the detention order was passed on 11.04.2017. He further submitted that in the grounds of detention, it has been stated that the relatives of the detenu are taking steps to file the bail application. The name and the relationship of the person, who is taking steps to file the bail application, has not been indicated. 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 detenu 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 detenu 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 Cr.M.PNo.07/2017, dated 11.04.2017, passed by the second respondent is set aside. The detenu, namely, Emperumal, son of Sakkarathalvar, aged about 53 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (RTI)

/True copy/



To:

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort.St.George, Chennai - 600 009.
2. The District Collector and District Magistrate,
Tiruchirappalli District,
Trichy.
3. The Superintendent,
Central Prison,
Tiruchirappalli.
4. The Joint Secretary to Government
Public (Law & Order),
Fort.St.George, Chennai-9.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

AM

PSM/GT/SAR2/22.08.2017/3P/6C

H.C.P. (MD) No.614 of 2017
09.08.2017