



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) No.664 of 2017

Natrajan

... Petitioner

-vs-

1. The Secretary to Government,
Co-Operation, Food and Consumer Protection Department
2nd Floor Namakkal Kavignar Maaligai,
Secretariat, Chennai - 600 009.
2. The District Magistrate and District Collector,
Office of the District Collector and District Magistrate,
Theni District, Theni.
3. The Additional Secretary to Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
(Department of Consumer Affairs),
Room No.270, Krishi Bavan,
New Delhi-110 001.
4. The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records, connected with the detention order of the Respondent No.2 in DETENTION ORDER No.01/2017 (CS), dated 03.03.2017 and Quash the same and direct the Respondents to produce the body and person of the detenu by name Rajaram, son of Natarajan, aged about 28 years, now confining at Madurai Central Prison before this Hon'ble Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For R1, R2 & R4 : Mr.T.Mohan
Additional Public Prosecutor

For R3 : Mr.C.Nandagopal,
Central Govt. Standing Counsel

**O R D E R**

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

WEB COPY The petitioner is the father of the detenu, namely, Rajaram, son of Natarajan, Male, aged about 28 years. The detenu has been detained by the second respondent by his Detention Order No.01/2017 (CS), dated 03.03.2017, holding him to be a "BLACK MARKETEER", as contemplated under the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act 7 of 1980). 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.

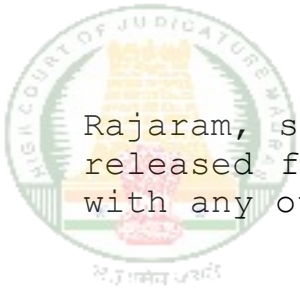
3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

4. The learned counsel appearing for the petitioner would submit that there is a non-application of mind on the part of the detaining authority. He further submitted that admittedly the detenu has not filed any bail application and in paragraph 5 of the detention order it is stated that the petitioner has not filed any bail application. Since the petitioner has not filed any bail application, therefore, he inference that there is a any real possibility of making out by filing such application before the same or higher Court. Thus, we find that there is a non-application of mind.

5. 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.

6. Considering the submissions made on both sides, we are of the view that there is a non-application of mind on the part of the detaining authority in passing the order. In such view of the matter, the impugned detention order is liable to be quashed.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.01/2017(CS), dated 03.03.2017, passed by the second respondent is set aside. The detenu, namely,



Rajaram, son of Natarajan, aged about 28 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(AD-II)

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/True Copy/

Sub Assistant Registrar

To:

1. The Secretary to Government,
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Madurai District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
6. The The Joint Secretary to Government,
Public (Law & Order)
Fort St. George, Chennai -9

+1cc to Mr.R.Alagumani, Advocate Sr.No.65572

AM

VB/GT/SAR1/28.07.2017/3P/8C

H.C.P. (MD) No.664 of 2017
12.07.2017