

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 27.09.2018
CORAM
THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.1270 of 2018

Usha Geeth Priya
W/o.Murugesan ... Petitioner

-vs-

1.Government of Tamil Nadu
represented by its
Secretary,
Co-operation, Food and Consumer
Protection Department,
Fort St.George,
Chennai - 600009.

2.The District Collector and District Magistrate,
Erode District,
Erode.

3.The Additional Secretary to Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
Department of Consumer Affairs,
Room No.270, Krishi Bhavan,
New Delhi - 110 001. ... Respondents

Writ petition under Article 226 of the Constitution of India filed praying for issuance of a Writ of Habeas Corpus calling for the records in Detention Order in Cr.M.P.No.06/Black Marketer/2018/C1 dated 05.06.2018 on the file of the second respondent herein and set aside the same and direct the respondents herein to produce the body of petitioner's husband Murugesan, aged 45 years, S/o.Late Arumugam, the detenu herein, now confined at Central Prison, Coimbatore, before this Court and set him at liberty.

For Petitioner : Mr.R.Subhadra Devi
For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor [R1& R2]
No appearance [R3]

O R D E R

(Order of the Court was made by C.T.SELVAM, J)

Petitioner is the wife of the detenu Murugesan S/o.Arumugam, who has been branded as a "Black Marketeer" under the Tamil Nadu Act 14 of 1982 and detained under order of the second respondent passed in Cr.M.P.No.06/Black Marketer/2018/C1 dated 05.06.2018.

2. The detenu came to adverse notice in the following cases:

Sl.No.

Police Station and Crime No.

Offences u/s.

1.

Erode Civil Supplies Criminal Investigation Department

Crime No.97/2017 dated 10.09.2017

6(4) of TNSC (RDCS) Order 1982 r/w 7(1)(a)(ii) of Essential Commodities Act, 1955

2.

Salem Civil Supplies Criminal Investigation Department, Crime No.117/2017 dated 23.09.2017

6(4) of TNSC (RDCS) Order 1982 r/w 7(1)(a) (ii) of Essential Commodities Act, 1955

3.

Erode Civil Supplies Criminal Investigation Department Crime No.112/2017 dated 23.10.2017

6(4) of TNSC (RDCS) Order 1982 r/w 7(1)(a)(ii) of Essential Commodities Act, 1955.

4.

Erode Civil Supplies Criminal Investigation Department, Crime No.123/2017 dated 23.11.2017

6(4) of TNSC (RDCS) Order 1982 r/w 7(1)(a)(ii) of Essential Commodities Act, 1955

The alleged ground case has been registered against the detenue in Crime No.130 of 2017 on the file of Erode Civil Supplies Criminal Investigation Department, for offence u/s.6(4) of TNSC (RDCS) Order 1982 r/w 7(1)(a)(ii) of Essential Commodities Act, 1955. Aggrieved by the order of detention, the present writ petition has been filed.

3. Heard learned counsel for petitioner and learned Additional Public Prosecutor for respondent. Perused the materials on record.

4. The detaining authority while noticing that the detenue was remanded in Crime Nos.97/2017, 112/2017, 123/2017 and 130/2017 on the file of Civil Supplies Criminal Investigation Department, Erode Unit and Crime No.117/2017 on the file of Salem Civil Supplies Criminal Investigation Department and lodged at Sub Jail, Erode and has not moved any bail application in any of the above Crime Numbers, he had informed that in a similar case bail has been granted by the Principal and Sessions Judge, Erode and therefore, there was a real possibility of his coming out on bail and if he comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of public order. This Court, under orders in H.C.P.No.1520 of 2017 dated 04.12.2017, has held thus: [5(ii). ... The Detaining Authority, according to us, had wrongly entertained an apprehension that the detenu would be released on bail, by adverting to the fact that in similar cases, bail was granted. According to us, this is not have been taken as the basis to come to such a conclusion. In granting bail the Court inter alia takes into account several aspects most of which are case specific. Those would include the gravity of the offence, the ability to suborn witnesses and the likelihood of the accused fleeing from justice. The "similarity case" yardstick applied by the Detaining Authority, based on the provisions of law under which an accused is booked, cannot be a satisfactory indicator for coming to the conclusion that the likelihood of the detenu being enlarged on bail was real and imminent.]

We are in agreement with the above finding. For the said reason, the order under challenge would have to fall.

The Habeas Corpus Petition is allowed and the impugned detention order passed by the second

respondent, detaining the detenu Murugesan S/o.Arumugam in Cr.M.P.No.06/Black Marketer/2018/C1 dated 05.06.2018 is quashed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

[C.T.S., J] [M.N.K., J]

27.09.2018

Index: Yes/No

Internet: Yes

gm

To

1.The Secretary,
Co-operation, Food and Consumer Protection Department,
Fort St.George,
Chennai - 600009.

2.The District Collector and District Magistrate,
Erode District,
Erode.

3.The Additional Secretary to Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
Department of Consumer Affairs,
Room No.270, Krishi Bhavan,
New Delhi - 110 001.

4.The Public Prosecutor
High Court, Chennai.

5.The Superintendent of Police,
Central Prison,
Coimbatore.

C.T.SELVAM, J
and
M.NIRMAL KUMAR, J

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