

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.1388 of 2018

Marikannu
W/o.Govindan

... Petitioner

-Vs-

1.The State of Tamil Nadu
represented by its
Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600009.

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

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records of the detention made in D.O.No.27/2018 C-2 dated 26.06.2018 passed by second respondent and set aside the same and direct the respondents to produce the detainee before this Court and set the detainee Asha W/o.(Late) Srinivasan, aged 31 years, now confined at Special Prison for Women, Vellore and set her at liberty.

For Petitioner : Mr.R.Balakrishnan

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

[Order of the Court was made by C.T.SELVAM, J]

Petitioner is the cousin sister of detainee Asha W/o. (Late) Srinivasan, who has been branded as a 'Bootlegger' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in D.O.No.27/2018-C2 dated 26.06.2018.

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

Sl.No.	Police Station and Crime No.	Offences u/s.
1.	Tiruvannamalai Prohibition Enforcement Wing Crime No.671/2017	4(1)(a) TNP Act, 1937
2.	Tiruvannamalai Town Police Station Crime No.1188/2017	4(1)(a) r/w 4(1-A) (ii) TNP Act 1937 @ 4(1)(a) TNP Act, 1937
3.	Tiruvannamalai Town Police Station Crime No.374/2018	4(1)(a) r/w 4(1-A) (ii) TNP Act, 1937 @ 4(1)(a) TNP Act, 1937

The alleged ground case has been registered against the detainee in Crime No.594 of 2018 on the file of Tiruvannamalai Prohibition Enforcement Wing for offences under sections 4(1) (i) r/w 4(1-A) (ii) Tamil Nadu Prohibition Act, 1937. Aggrieved by the order of detention, the present writ petition has been filed.

3. Amidst several grounds raised, learned counsel for petitioner submits that the detaining authority noticed that the detainee stands remanded in case registered in Crime No.594 of 2018 on the file of Tiruvannamalai Prohibition Enforcement Wing and the bail application moved before Court below was dismissed. However, the detaining authority had informed that the relatives of the detainee were taking efforts to move application to take her out on bail in the ground case and therefore, there was a real possibility of her coming out on bail and if she comes out on bail, she will indulge in further activities which will be prejudicial to the maintenance of public order. Though the detaining authority has informed of an effort by the relatives to move bail petition for the release of the detainee, there is no material to support such contention.

4. We have heard learned Additional Public Prosecutor on the above submissions and also perused the records.

5. We find that there absolutely is no material which would disclose the likelihood of the relatives of the detainee moving bail petition on her behalf in respect of ground case. Therefore, the non-application of mind and erroneous subjective satisfaction arrived at by the detaining authority is apparent.

Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order passed by second respondent, detaining the detainee, namely, Asha W/o.(Late) Srinivasan, in D.O.No.27/2018-C2 dated 26.06.2018, is quashed. The above named detainee is ordered to be set at liberty forthwith, unless her custody is required in connection with any other case.

Sd/--
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600009.
- 2.The District Collector and District Magistrate,
Thiruvannamalai District,
Thiruvannamalai.
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The Superintendent,
Special Prison for Women,
Vellore.
- 5.The Joint secretary to Government Public(Law and Order)
Fort St George, Chennai. 9.

H.C.P.No.1388 of 2018

ASK(26/11/2018)