

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.1479 of 2018

P.Kavitha
W/o.Pitchandi

..Petitioner

vs.

- 1.The Secretary to Government,
Co-operation, Food & Consumer Protection Department,
Namakkal Kavignar Maaligai, 2nd Floor,
Secretariat, Chennai - 600 009.
- 2.The District Collector-cum-District Magistrate
Krishnagiri District Collector Office,
Krishnagiri.
- 3.The Additional Secretary to Government,
Ministry of Consumer Affairs,
Food and Public Distribution (Dept of Consumer affairs)
Room No.270, KrishBhavan, New Delhi- 110 001.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus calling for the entire records connected with the detention order in No.S.C.No.45/2018 (CS) dated 12.07.2018 on the file of the Respondent No.2 and quash the same and direct the respondents to produce the body and person of the petitioner's husband one Pitchandi S/o.Vediyappan, aged about 43 years, now confined at Central Prison, Salem before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Senthil Vel

For Respondents: Mr.M.Mohamed Riyaz,

Additional Public Prosecutor

[R1 and R2]

Mr.V.Ashok Kumar

Central Govt. Standing Counsel [R3]

O R D E R

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

Petitioner is the wife of the detenu Pitchandi S/o.Vediyappan, who has been branded as "Black Marketer" under

the Tamil Nadu Act 14 of 1982 and detained under orders of third respondent passed in S.C.No.45/2018 (CS) dated 12.07.2018. Such order is under challenge herein.

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

Sl.No.	Police Station and Crime No.	Offences u/s.
1.	Krishnagiri Civil Supply CID Crime No.138/2017	6(4) of TNSC (RDCS) Order of 1982 r/w 7(1)a(ii) of EC Act, 1955
2.	Krishnagiri Civil Supply CID Crime No.44/2018	6(4) of TNSC (RDCS) Order of 1982 r/w 7(1)a(ii) of EC Act, 1955

The alleged ground case has been registered against the detenu in Crime No.65 of 2018 on the file of Krishnagiri Civil Supplies Criminal Investigation Department, for offences u/s.6 (4) of TNSC (RDCS) Order 1982 r/w 7(i)a(ii) of EC Act, 1955.

3. We have heard learned counsel for petitioner and learned Additional Public Prosecutor for respondents 2 and 3. Perused the materials on record.

4. The detaining authority while noticing that the detenu is in remand in both adverse and ground case and the bail applications moved by him before Court below are pending, he had informed that in a similar case bail has been granted by learned Judicial Magistrate I, Krishnagiri, in C.M.P.No.6291/2016 dated 16.12.2016 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 second respondent, detaining the detenu Pichandi S/o.Vediyappan in S.C.No.45/2018 (CS) dated 12.07.2018 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.

gm

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Co-operation, Food & Consumer Protection Department,
Namakkal Kavignar Maaligai, 2nd Floor,
Secretariat, Chennai - 600 009
- 2.The District Collector-cum-District Magistrate
Krishnagiri District Collector Office,
Krishnagiri.
- 3.The Additional Secretary to Government,
Ministry of Consumer Affairs,
Food and Public Distribution (Dept of Consumer affairs),
Room No.270, KrishBhavan, New Delhi- 110 001.
- 4.The Public Prosecutor, High Court, Madras.
- 5.The Superintendent, Central Prison, Salem.
6. The Joint Secretary to Govt. Public (L & O),
Fort St. George, Chennai-9.

KR/23/11/18

H.C.P.No.1479 of 2018

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