

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.10.2018
CORAM
THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.1496 of 2018

Geetha
W/o.Dhanapal ... Petitioner
-vs-

1.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.

2.The Principal Secretary to the Government,
Food and Consumer Protection Department,
II Floor, Namakkal Kavingnar Maaligai,
Secretariat, Chennai - 600009.

3.The District Collector and District Magistrate,
Vellore, Vellore District. ... 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 connection with the order of detention passed by third respondent in his office Ref.C3.D.O.No.45/2018 dated 29.06.2018 against the petitioner's son by name Murali S/o.Dhanapal, aged about 25 years, at Central Prison, Vellore, Vellore District and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.E.Kannadasan
For Respondents : Mr.V.Ashokkumar, CGSC [R1]
Mr.M.Mohamed Riyaz
Additional Public Prosecutor [R2 & R3]

O R D E R

(Order of the Court was made by C.T.SELVAM, J)
Petitioner is the mother of the detenu Murali S/o.Dhanapal, who has been branded as a "Black Marketeer" under the Tamil Nadu Act 14 of 1982 and detained under order of third respondent passed in C3.D.O.No.45/2018 dated 29.06.2018.

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

Sl.No.

Police Station and Crime No.

Offences u/s.

1.

Civil Supplies CID, Vellore Unit

Crime No.64/2017

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

2.

Civil Supplies CID, Vellore Unit

Crime No.98/2018

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

3.

Civil Supplies CID, Vellore Unit

Crime No.104/2018

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

The alleged ground case has been registered against the detenu in Crime No.108 of 2018 on the file of Civil Supplies CID, Vellore Unit, for offences under Section 6(4) of TNSC (RDCS) Order, 1982 r/w 7(1)a(ii) of E.C.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 respondents. Perused the materials on record.

4. The detaining authority while noticing that the detenu was remanded in the ground case and his remand was extended upto 03.07.2018 and the bail application moved by the detenu in CrI.M.P.No.1116/2018 on the file of learned Judicial Magistrate IV, Vellore, was dismissed, he had informed that in a similar case bail has been granted by learned Principal Sessions Judge, Vellore, in CrI.M.P.No.1087/2017 dated 15.03.2017 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 third respondent, detaining the detenu Murali S/o.Dhanapal in C3.D.O.No.45/2018 dated 29.06.2018 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., JJ] [M.N.K., JJ]

09.10.2018

Index: Yes/No

Internet: Yes

gm

To

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5.The Public Prosecutor
High Court, Chennai.

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

gm

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