

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.12.2018

CORAM
THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

H.C.P.No.1715 of 2018

Vasantha
W/o.Kubendran

... Petitioner

-VS-

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The Commissioner of Police/Detaining Authority,
Coimbatore City.

... Respondents

Writ petition under Article 226 of the Constitution of India filed praying for issuance of a Writ of Habeas Corpus calling for the entire records connected with the detention order of the second respondent in C.No.73/G/IS/2018 dated 06.07.2018 and quash the same and direct the respondents to produce the body and person of the petitioner's husband namely Kubendran, son of Muthu Thevar, aged about 52 years detained in Central Prison, Coimbatore, before this Hon'ble Court and set him at liberty forthwith.

For Petitioner : Mr.S.Mohamed Ansar

For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor

O R D E R

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

Petitioner is the wife of the detenu M.Kubendran, S/o.Muthu Thevar, who has been branded as a 'Drug Offender' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in C.No.73/G/IS/2018 dated 06.07.2018.

2. The alleged ground case has been registered against the detenu in Crime No.789 of 2018 on the file of E-2 Peelamedu Police Station for offences u/s.8(c) r/w 20 (b) (ii) (C), 25 and 29(1) NDPS Act, 1985. 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 is in remand in Crime No.789/2018 on the file of E-2 Peelamedu Police Station and no bail application has been moved, he had informed that steps were being taken to move bail application to take him out on bail in Crime No.789 of 2018 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. Though the detaining authority has informed of an effort by the relatives to move bail petition for the release of the detenu, there is no material to support such contention.

5. We find that there absolutely is no material which would disclose the likelihood of the relatives of the detenu moving bail petition on his behalf in respect of the ground case in Crime No.789 of 2018. Therefore, the non-application of mind and erroneous subjective satisfaction arrived at by the detaining authority is apparent.

Accordingly, the impugned detention order passed by second respondent, detaining the detenu, namely, M.Kubendran S/o.Muthu Thevar, made in C.No.73/G/IS/2018 dated 06.07.2018, is quashed and the Habeas Corpus Petition is allowed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Deputy Registrar

//True Copy// सत्यमेव जयते
Sub Assistant Registrar

gm/rst

To

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The Commissioner of Police/Detaining Authority,
Coimbatore City.

3.The Public Prosecutor,
High Court, Madras.

4.The Superintendent of Central Prison,
Coimbatore.

5.The Joint Secretary to Government,
Public (Law and order),
Fort St.George, Chennai.

H.C.P.No.1715 of 2018

rrs 30/01/2019



WEB COPY