

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2018

CORAM:

THE HONOURABLE Mr.JUSTICE C.T.SELVAM
and
THE HONOURABLE Mrs.JUSTICE S.RAMATHILAGAM

H.C.P. No.2676 of 2018

Mallika

... Petitioner

-Vs-

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St George, Chennai 600 009.
- 2.The Commissioner of Police,
Greater Chennai City,
Vepery, Chennai - 600 007.
- 3.The Addl. Secretary,
Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
(Dept. of Consumer Affairs),
Room No.270, Krishi Bhawan,
New Delhi - 110 001.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records relating to the order passed in Memo No.06/Black Marketing Act/2018, dated 24.07.2018 passed by the 2nd respondent under Section 3(1) r/w. 3(2)(b) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act 1980 (Central Act 7 of 1980) and set aside the same and direct the respondent to produce the petitioner's husband Ramesh S/o.Marimuthu aged about 38 years the detenue, now confined in Central Prison, Puzhal, Chennai before this Hon'ble Court and set the petitioner's husband Ramesh S/o. Marimuthu aged about 38 years the detenue herein at liberty.

For Petitioner : Mr.S.Radha Krishnan

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

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

The petitioner, who is the wife of the detenu, namely, Ramesh, Son of Marimuthu, aged 38 years, challenges the impugned order of detention, dated 24.07.2018 in No.6/2018 detaining her husband as "BLACK MARKETER" contemplated under sub section 3(2) (b) read with 3(1) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act No.7 of 1980).

2. The detenu has come to adverse notice in the following cases:-

S.No.	Police Station & Crime No.	Section of Law
1.	Civil Supplies CID, Chennai Unit Crime No.65/2017	6(4) of TNSC (RDCS) Order 1982 r/w. 7(1)(a)(ii) of E.C. Act 1955
2.	Civil Supplies CID, Thiruvallur Unit Crime No.101/2018	6(4) of TNSC (RDCS) Order 1982 r/w. 7(1)(a)(ii) of E.C. Act 1955
3.	Civil Supplies CID, Chennai Unit Crime No.193/2018	6(4) of TNSC (RDCS) Order 1982 r/w. 7(1)(a)(ii) of E.C. Act 1955
4.	Civil Supplies CID, Chennai Unit Crime No.206/2018	6(4) of TNSC (RDCS) Order 1982 r/w. 7(1)(a)(ii) of E.C. Act 1955

The ground case has been registered against the detenu in Crime No.218/2018 on the file of the Civil Supplies, CID, Chennai Unit, for offences u/s 6(4) of TNSC (RDCS) Order 1982 r/w. 7(1) (a)(ii) of E.C. Act 1955. The detention order has been passed by second respondent in No.6/2018 on 24.07.2018.

3. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

4. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

5. The Grounds of Detention would reveal that 4 adverse case has been registered against the detenu and a ground case was registered against him in Cr.No.218/2018 for the offences

u/s.6(4) of TNSC (RDSCS) Order 1982 r/w. 7(1)(a)(ii) of E.C. Act 1955. Admittedly, the detenu has moved bail application in the ground case as also in the 4th adverse case and the same are pending before the Court of Judicial Magistrate No.I, Thiruvallur, in Crl.M.P.Nos.2769/2018 and 2771/2018 respectively. Therefore, the probability of release of the detenu imminently does not arise. Hence, we are inclined to set aside the detention order. Though the detaining authority has made reliance on similar case, in which an accused was granted bail, the facts involved in those cases are different. The principle of similarity cannot be applied mechanically. Normally, bails are granted based on the facts and circumstances of each case. Therefore, similar case plea, cannot be taken into consideration. Hence, there is no material to substantiate that there is real possibility of the detenu coming out on bail and the said order was passed without application of mind.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.6/2018 dated 24.07.2018, passed by the second respondent is set aside. The detenu, namely, Ramesh, Son of Marimuthu, aged about 38 years, is directed to be released forthwith unless his detention is required in connection with any other case.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

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To:

- 1.The Secretary to the Government,
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- 2.The Commissioner of Police,
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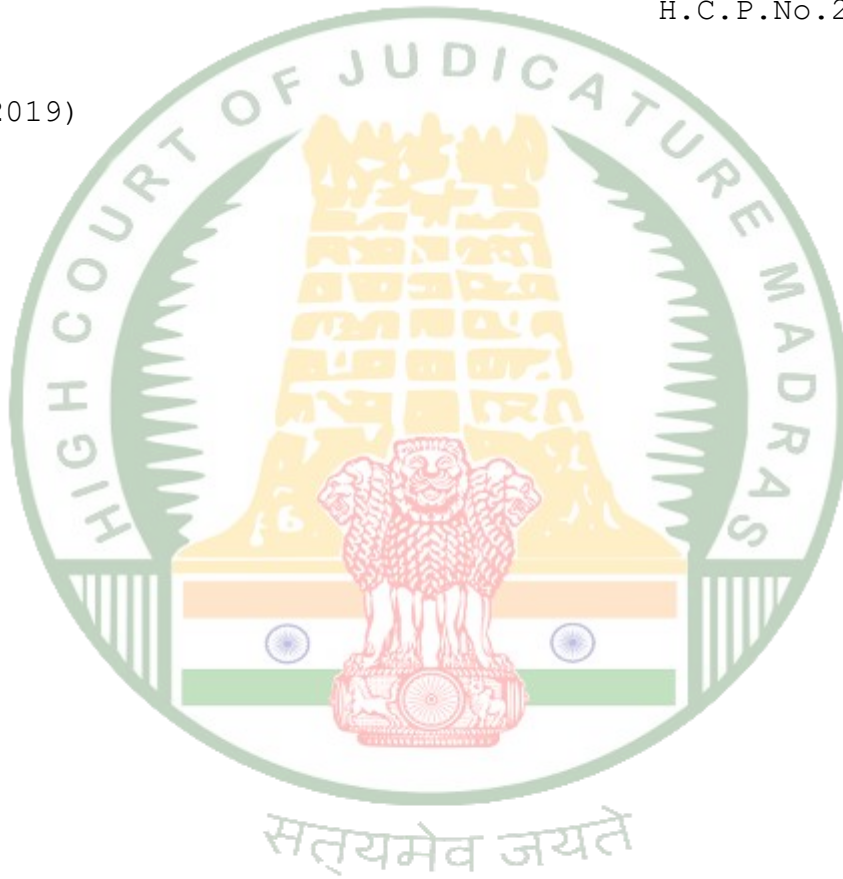
4.The Superintendent,
Central Prison, Puzhal,
Chennai.

5.The Joint Secretary
Public (Law and order) Department,
Secretariat, Chennai - 600 009.

6.The Public Prosecutor
High Court, Madras.

H.C.P.No.2676 of 2018

SP(21/01/2019)



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