



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2018

CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM

and

THE HONOURABLE Mr. JUSTICE A.M.BASHEER AHAMED

H.C.P. (MD) No.809 of 2018

Kavitha

... Petitioner

Vs.

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort, St.George,
Chennai 600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Dindigul District.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

... Respondents

PRAYER: The petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records connected with the detention order of the 2nd respondent in detention order No.37/2018 dated 29.05.2018 and quash the same and direct the respondents to produce the body or person of the detenu by name, Mayilraj, son of Ravi, aged about 43 years now detained at Madurai Central Prison before this Court and set him at liberty.

For Petitioner	: Mr.R.Alagumani
For Respondents	: Mr.V.Neelakandan, Additional Public Prosecutor

ORDER

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

The petitioner is the wife of detenu - Mayilraj, son of Ravi. The detenu has been detained by the second respondent by the impugned Detention Order in No.37/2018 dated 29.05.2018 holding him to be a "Drug Offender", as contemplated under Section 2(e) of Tamil Nadu Act 14 of 1982.

2.Though several grounds have been raised in the Habeas Corpus Petition, learned counsel for petitioner would mainly focus on the ground that towards informing imminent possibility of detenu being released on bail, the Detaining Authority has relied on



similar case theory. Admittedly, such documents have not been supplied to the detenu, as it did not form part of the booklet furnished by the prosecution. Therefore, non supply of copy of the bail application in similar case to the detenu would vitiate the impugned detention order.

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3. We have considered the above submissions.

4. The Hon'ble Supreme Court in M.Ahamed Kutty Vs. Union of India and another (1990(2) SCC 1) has observed thus:

"7. Considering the facts in the instant case, the bail application and the bail order were vital materials for consideration. If those were not considered the satisfaction of the Detaining Authority itself would have been impaired and if those had been considered, they would be documents relied on by the Detaining Authority though not specifically mentioned in the annexure to the order of detention and those ought to have formed part of the documents supplied to the detenu with the grounds of detention and without them the grounds themselves could not be said to have been complete. We have, therefore, no alternative but to hold that it amounted to denial of the detenu's right to make an effective representation and that it resulted in violation of Article 22(5) of the Constitution of India rendering the continued detention of the detenu illegal and entitling the detenu to be set at liberty in this case."

5. In the facts and circumstances of the present case, non supply of the copy of the bail application in similar case, to the detenu has the effect of vitiating the impugned detention order. Further due to non supply of such a vital document, the detenu has lost valuable right to make an effective representation to the authorities concerned.

6. In the light of the above said principles laid down by the Hon'ble Supreme Court in M.Ahamed Kutty's case, the Detention Order, passed by the second respondent, in his proceedings in Detention Order in No.37/2018 dated 29.05.2018, is quashed. The detenu, namely, Mayilraj, son of Ravi, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

In the result, we allow the Habeas Corpus Petition.

Sd/-

Assistant Registrar (CS-III)

/True Copy/



To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort, St. George,
Chennai 600 009.
2. The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Dindigul District.
3. The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
4. The Joint Secretary to Government,
Public (Law and Order),
Fort. St. George,
Chennai - 9.
5. The Addl. Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

NBJ

DS/SKN/SAR-1 :20.08.2018: 3P/6C

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