



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **09.10.2018**

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **M.M.SUNDRESH**

and

THE HONOURABLE MR.JUSTICE **N.SATHISH KUMAR**

H.C.P(MD)No.1089 of 2018

Mariammal

.. Petitioner

Vs.

1.The Secretary to Government,
Department of Cooperation,
Food and Consumer Protection Department,
Secretariat, Chennai - 600 009.

2.The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.

3.The Additional Secretary to Government of India,
Department of Consumer Affairs,
Room No.270, Krishi Bhavan,
New Delhi - 110 001.

4.The Superintendent of Central Prison,
Palayamkottai,
Tirunelveli District.

.. Respondents

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 passed in M.H.S.Confdl No.69/2018 dated 18.07.2018 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu i.e. petitioner's husband namely Kannan, aged about 51 years, S/o.Ariraman, now detained at Central Prison, Palayamkottai before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents 1,2&4 : Mr.K.Dinesh Babu
Additional Public Prosecutor.

For Respondent No.3 : Mr.K.Prabhu,
Central Government Standing Counsel

**O R D E R**

[Order of the Court was made by **M.M.SUNDRESH, J.**]

The detenu has been detained by the second respondent by his order in M.H.S.Confdl No.69/2018 dated 18.07.2018, holding him as a "Black Marketer", as contemplated under the provisions of Prevention of Black marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Act No.7 of 1980). The said order is under challenge in this Habeas Corpus Petition.

2.The learned counsel appearing for the petitioner, placing reliance upon the order passed by this Court in HCP(MD) No.910 of 2018, dated 10.07.2018, submitted that there is non application of mind on the part of the detaining authority, inasmuch as the detention order has been passed on the ground that bail application is likely to be filed, notwithstanding the fact that bail petition has already been filed and the same is pending.

3.Relevant paragraphs of the said order read as follows:

"4.We have considered the above submissions.

5.An identical issue was considered by a Division Bench of this Court in T.Chitra Vs. State of Tamil Nadu, reported in 2014(2) MLJ Cr1 72 and the order of detention was set aside on the ground of non application of mind. Recently, this Court had an occasion to deal with a similar issue in HCP(MD) No.190 of 2018, dated 24.04.2018 [Barani @ Baranidharan Vs. The Principal Secretary to Government].

6.Following the decisions, referred to above, the Habeas Corpus Petition shall stand allowed and the detention order, passed by the second respondent, in his proceedings in Detention Order in Detention Order No.53/2018, dated 22.06.2018, is quashed. The detenu, namely, Alex S/o.Sundarampillai, aged about 36, years, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case."

4.In the light of the same, this Habeas Corpus Petition is allowed and the Detention Order passed by the second respondent, in M.H.S.Confdl No.69/2018 dated 18.07.2018 is quashed. The detenu, namely, Kannan, S/o.Ariraman, aged about 51 years, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

Sd/-

Assistant Registrar (CS-I)

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To

1. The Secretary to Government,
Department of Cooperation,
Food and Consumer Protection Department,
Secretariat, Chennai - 600 009.
2. The District Collector and District Magistrate,
Tirunelveli District, Tirunelveli.
3. The Additional Secretary to Government of India,
Department of Consumer Affairs,
Room No.270, Krishi Bhavan,
New Delhi - 110 001.
4. The Superintendent of Central Prison,
Palayamkottai,
Tirunelveli District.
5. The Joint Secretary to Govt.,
Public (law and order)
Fort St. George, Chennai.
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC To MR.K.PRABHU, Advocate SR. NO. 89552

Order made in
H.C.P (MD) No.1089 of 2018

SML

TR/SKN/SAR-I (26.10.2018) 3P 8C