



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 01.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM

AND

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

H.C.P(MD)No.1114 of 2018

WEB COPY

Sathiyabama

: Petitioner

Vs.

1. The Principal Secretary to Government,
Public (L & O-F) Department,
Secretariat, Chennai - 600 009.
2. The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thoothukudi District, Thoothukudi.
3. The Secretary to the Government of India,
Ministry of Home Affairs,
Department of Internal Security,
North Block, New Delhi - 110 001.
4. The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the entire records, connected with the detention order of the second respondent in H.S(M).Confdl.(NSA) No.07/18 dated 26.07.2018 and quash the same and direct the respondents to produce the detenu, by name, Hariragavan, son of Gankaiyan, aged about 40 years, now confined at Palayamkottai Central Prison, Tirunelveli District before this Court and set him at liberty forthwith.

For Petitioner

: Mr.M.Ajmal Khan
Senior Counsel

For Mr.R.Alagumani

For Respondent Nos.1,2&4

: Mr.K.Chellapandian,
Additional Advocate General
assisted by
Mr.S.Chandrasekar
Additional Public Prosecutor

For Respondent No.3

: Mr.K.R.Laxman

Central Government Standing Counsel

**O R D E R****[Order of the Court was made by C.T.SELVAM, J.]**

The petitioner is the wife of the detenu - Hariragavan, aged about 40 years. The detenu has been detained by the second respondent, by his order in H.S(M).Confdl.(NSA) No.07/18, dated 26.07.2018, as contemplated under sub-Section (2) of Section 3 of the National Security Act, 1980 (Central Act 65 of 1980).

2. The order of detention under challenge has been passed against the detenu, primarily, in relation to his part in anti-Sterlite protest in and around Tuticorin. The detention order has been passed on 26.07.2018. However, this Court, under Orders dated 24.07.2018 in CrI.OP(MD).No.12675 of 2018, while granting bail to the detenu in Crime No.338 of 2018, registered on the file of the Inspector of Police, Sipcot Police Station, Thoothukudi, *inter alia*, imposed a condition that the detenu shall not take part in any agitation in connection with Sterlite for the next 90 days. Although it has been submitted that the Sponsoring Authority had recommended the detention on 20.07.2018 and the order of bail of this Court is subsequent date, viz., 24.07.2018, we have no doubt that if between the act of sponsoring the detention and passing the detention order, an important intervening event/occurrence had taken place, it is the duty of the Sponsoring Authority to bring the same to the notice of the Detaining Authority. The failure of the Sponsoring Authority, in the instant case, had led to deprivation of the Detaining Authority considering the material effect of the order of bail of this Court, dated 24.07.2018 in CrI.OP(MD).No.12675 of 2018. The present is not so much case of non-application of mind, as it is a case of subjective satisfaction standing wrongly arrived at for requisite information/particulars.

3. In the result, the Habeas Corpus Petition shall stand allowed and the Detention Order passed by the second respondent, in his proceedings in H.S(M).Confdl.(NSA) No.07/18 dated 26.07.2018, is quashed. The detenu, namely, Hariragavan, son of Gankaiyan, aged about 40 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)****/True Copy/****Sub Assistant Registrar (CS-II)**



To

1. The Principal Secretary to Government,
Public (L & O-F) Department,
Secretariat, Chennai - 600 009.

WEB COPY

2. The District Collector and District Magistrate,
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3. The Secretary to the Government of India,
Ministry of Home Affairs,
Department of Internal Security,
North Block, New Delhi - 110 001.

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

5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+2cc to Mr.R.Alagumani, Advocate SR.No.76144,76345

+1cc to Mr.K.R.Laxman, Advocate SR.No.76757

Nb

MK/RP/SAR 2/23.08.2018/3P/9C

ORDER MADE IN
H.C.P (MD) No.1114 of 2018
Dated:01.08.2018