



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) No.1118 of 2018

Anthony Sahaya Punitha Valan : Petitioner

Vs.

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

2.The District Collector and District Magistrate,
Kanniyakumari District,
Nagercoil.

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 Prison,
Palayamkottai,
Tirunelveli District.

: 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 passed in P.D.No.35 of 2018, dated 16.07.2018, on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu, namely Anthony Sahaya Punitha Valan, aged about 49 years, S/o.Pusparaj, now detained in 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.P.Subbiah,

Central Government Standing Counsel

O R D E R

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

<https://hcservices.ecourts.gov.in/hcservices/>

The detenu has been detained by the second respondent by his order in P.D.No.35 of 2018, dated 16.07.2018, holding him to



be a "Black Marketer", as contemplated under the provisions of Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act 7 of 1980). The said order is under challenge in this Habeas Corpus Petition.

2. Despite several adjournments, no counter-affidavit is filed by the learned Additional Public Prosecutor.

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

4. The learned counsel for the petitioner would submit that there is total non-application of mind on the part of the Detaining Authority in passing the detention order, as, according to him, the detenu has not filed any bail application in the ground case. However, the detention order has been passed by placing reliance upon the bail order granted by the learned Magistrate concerned and stated that there is likelihood of the detenu coming out on bail. Thus, there is non-application of mind on the part of the Detaining Authority.

5. As rightly contended by the learned counsel appearing for the petitioner, the Detaining Authority referred to the fact that the bail applications filed in the ground case were dismissed. However, the Detaining Authority proceeded further to express subjective satisfaction that there was real possibility of the detenu coming out on bail, by filing bail application, which shows total non-application of mind. Thus, on this sole ground alone, the impugned detention order is liable to be set aside.

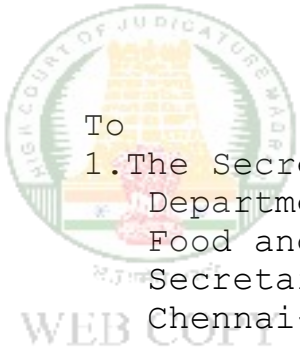
6. In the result, the Habeas Corpus Petition shall stand allowed and the Detention Order passed by the second respondent, in his proceedings in Detention Order in P.D.No.35 of 2018, dated 16.07.2018, is quashed. The detenu, namely, Anthony Sahaya Punitha Valan, S/o.Pusparaj, aged about 49 years, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS-I)



To

- 1.The Secretary to Government,
Department of Co-operation,
Food and Consumer Protection Department,
Secretariat,
Chennai-600 009.
- 2.The District Collector and District Magistrate,
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Nagercoil.
- 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 Prison,
Palayamkottai,
Tirunelveli District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO MR.P.SUBBIAH,, ADVOCATE IN SR NO.89526

SML

BU/SKN/SAR-1 :13.11.2018 : 3P/7C

ORDER MADE IN
H.C.P (MD) No.1118 of 2018
Dated:09.10.2018