



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and

The Hon'ble Mr. Justice M.NIRMAL KUMAR

H.C.P.No.767 of 2019

Lakshmi Raja

.. Petitioner

Vs

1.The State of Tamil Nadu

Rep.by The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.

2. The Commissioner of Police,
Salem City, Salem.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of habeas corpus, directing the respondents to produce the petitioner's husband by name Anandaraj @ Raja, son of Selvakumar, aged 34 years before this Court now confined in Central Prison, Salem, set him at liberty and to call for the records pertaining to the order of detention passed in C.M.P.No.9/Drug Offender/Salem City/2019 dated 13.03.2019 passed by the second respondent and set aside the same.

For Petitioner .. Mr.T.Muruganantham

For Respondents.. Mr.C.Iyyappa Raj,
Addl. Public Prosecutor

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner is the wife of the detenu and challenge is made to the order of detention dated 13.03.2019 made in C.M.P.No.9/Drug Offender/Salem City/2019, passed by the second respondent under which the detenu has been branded



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as a 'Drug Offender' and detained under The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug-Offenders, Forest-offenders, Goondas, Immoral Traffic Offenders, Sand offenders, Slum-Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have perused the materials available on record.

3. The main argument of the learned counsel appearing for the petitioner is that the detenu has two adverse cases and in the first adverse case, he has been granted bail in the first adverse case by this Court. He would further submit that when there is no bail application filed on behalf of the detenu in respect of the second adverse case and ground case, nor by the relatives of the detenu, there is no imminent possibility of him being released on bail and therefore, the impugned order has been passed without any supporting material.

4. For appreciating the contentions raised by the learned counsel for the petitioner, the relevant averments in para 6 of the grounds of detention are extracted below:

"6. I am aware that Thiru Anandaraj @ Raja is in remand for the cases of NIB CID, Salem Unit Cr.No.14/2019, u/s 8(c) r/w 20 (b)(ii)(A) of NDPS Act, 1985 and NIB CID, Salem Unit Cr.No.15/2019, u/s. 8(c) r/w 20(b)(ii)(B) and Section 25 of NDPS Act, 1985 and so far no bail petitions filed on behalf of him for these cases. Further, it is learnt that the relative of Thiru. Anandaraj @ Raja is taking efforts to move bail applications to take him out on bail for the above cases. I am also aware that bail has been granted by the Hon'ble Madras High Court in CrI.O.P.No.26682/2017 dated 08.12.2017 for a similar case of NIB CID, Salem Unit Cr.No.105/2017, u/s.8(c) r/w 20(b)(ii)(B) and Section 25 of NDPS Act 1985 registered against him, who was remanded on 18.8.2017. Hence, I infer that there is a real possibility of him (Thiru. Anandaraj @ Raja) coming out on bail for the above said cases, since bails are granted for similar cases by the concerned Court or the higher Court after efflux of time....."

5. From a reading of the aforesaid order, it is clear that the detenu has not moved bail applications in respect of second adverse case and ground case. When that being so,



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the detaining authority, based on the statement of the sponsoring authority to the effect that the relatives of the detenu are taking steps to take the detenu on bail in the second adverse case and the ground case, has arrived at the satisfaction that there is real possibility of the detenu coming out on bail in the said cases by filing bail applications and clamped the detention order. Thus, it is clear that the detaining authority, without considering the same, has passed the impugned detention order without any supporting material and the same is, therefore, vitiated.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.9/Drug Offender/Salem City/2019 dated 13.03.2019, passed by the second respondent is set aside. The detenu, namely, Anandaraj @ Raja, son of Selvakumar, aged 34 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
2. The Commissioner of Police,
Salem City, Salem.
- 3.The Superintendent,
Central Prison, Salem.
- 4.The Joint Secretary to Government,
Public (Law and order) Fort.St.George, Chennai 9.
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.767 of 2019

A.SK(08/08/2019)