

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2019

Coram

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

H.C.P. No.795 of 2019

Bothumani

... Petitioner

-vs-

- 1.The Government of Tamil Nadu,
Rep. By its Secretary,
Cooperation, Food and Consumer Protection Department,
Fort St. George, Chennai - 600 009.
 - 2.The District Collector and District Magistrate,
Dharmapuri District, Dharmapuri.
 - 3.The Additional Secretary to Government of India,
Ministry of Consumer Affairs Food and Public Distribution
Department of Consumer Affairs,
Room No.270, Krishi Bhavan,
New Delhi.
- ... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records in detention order in SC No.1/2019(CS) dated 11.01.2019 on the file of the second respondent herein and set aside the same and direct the respondents herein to produce the body of petitioner's husband C. Madesh, 30 years, son of Chinnaraj now confined in Central Prison, Salem before this Hon'ble Court and and set him at liberty.

For Petitioner : Mr.A.E.Kalaiselvan

For Respondents : Mr.C.Iyyappa Raj
Addl. Public
Prosecutor
: for R1 & R2
M/s.Arockiam, Central
Government Standing
Counsel for R3

ORDER

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

The petitioner is the wife of C. Madesh, son of Chinnaraj, aged 30 years, who is the detenu. The detenu has been detained by the second respondent by his order in SC No.1/2019(CS) dated 11.01.2019 holding him to be a "Black Marketeer", as contemplated under the Prevention of Blackmarketing 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. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. The learned counsel appearing for the petitioner submits that the order of Detention passed against the detenu is liable to be set aside on the ground of non-application of mind on the part of the Detaining Authority while passing the order of Detention against the detenu. According to the learned counsel for the petitioner, in ground No.5 of the order of Detention, the Detaining Authority has stated that the detenu is in remand in Dharmapuri CSCID Crime No.88 of 2018 and he has filed bail application and the same was dismissed by the Judicial Magistrate No.I, Dharmapuri in Crl.M.P.No.03/2019 on 04.01.2019. The detenu has filed another bail application and the same is pending in Crl.M.P.No.49 of 2019 before the District Principal and Sessions Court, Dharmapuri. He has further stated that it is very likely of the detenu coming out on bail since in a similar case in Krishnagiri CSCID Cr. No.150 of 2016 under Section 6(4) of TNSC (RDCS) Order of 1982 r/w 7(1)(a)(ii) of E.C. Act, 1955, bail was granted by the Judicial Magistrate No.I, Krishnagiri in C.M.P.No.6291 of 2016. But the copy of the bail order furnished to the detenu does not tally with the similar case relied on by the detaining authority, which shows non application of mind on the part of the detaining authority, due to which, the order of Detention passed against the detenu gets vitiated.

4.A perusal of the booklet would show that the copy of the bail order furnished to the detenu does not tally with the similar case relied on by the detaining authority and it is totally different from the statement made by the detaining authority in ground No.5 of the grounds of detention.

5.On considering the materials, we find that there is every force in the contention put forth by the learned counsel for the petitioner and hence, the order of Detention passed against the

detenu is liable to be set aside and it is, accordingly, set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention SC No.1/2019(CS) dated 11.01.2019, passed by the second respondent is set aside. The detenu, Madesh S/o. Chinnaraj, aged 30 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

mmi/ssm

To

- 1.The Secretary,
Cooperation, Food and Consumer Protection Department,
Fort St. George, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Dharmapuri District, Dharmapuri.
- 3.The Additional Secretary to Government of India,
Ministry of Consumer Affairs Food and Public Distribution
Department of Consumer Affairs,
Room No.270, Krishi Bhavan,
New Delhi.
- 4.The Superintendent of Prison,
Central Prison, Salem.
- 5.The Public Prosecutor,
High Court, Madras.
6. The Joint Secretary the Government,
Public (Law & Order)
Fort St. George, Chennai - 600 009.

+1cc to Mr.A.E.Kalaiselvan, Advocate SR.No.49299

H.C.P. No. 795 of 2019

NRL(CO)
GMY(08/07/2019)