

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05.08.2019

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.NO.1101 OF 2019

Renita

... Petitioner/
Wife of the Detenu

-vs-

State Rep By:

1. State of Tamil Nadu
Rep. By its Secretary to State,
Cooperation, Food & Consumer Department,
Fort St.George, Chennai - 600 009

2. The Commissioner of Police,
Coimbatore City.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling upon the production of the records relating to the detention order dated 11.04.2019 made in the detention memo No.C.No.1/PBMMSEC Act/IS/2019 passed by the 2nd respondent herein to quash the same and direct the respondents to produce the body or person of the petitioner's husband S.Samdhasan, S/o. Senthurapandi, aged about 42 years and now branded as Black Marketer and now confined in Central Prison, Coimbatore, before this Court and set him at liberty.

For Petitioner : Mr.S.Sugendran

For Respondents : Mr.C.Iyyappa Raj

Addl.Public Prosecutor

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ORDER

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

The petitioner is the wife of the detenu S.Samdhasan, S/o. Senthurapandi, aged about 42 years. The detenu has been detained by the second respondent by his order in memo No.C.No.1/PBMMSEC Act/IS/2019, dated 11.04.2019, holding to be a "Black Marketer", as contemplated under the 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. 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, assailing the order of detention, submits that the detaining authority has stated in the grounds of detention that the detenu is habitually procuring free rice and other subsidized commodities meant for Public Distribution System, which cannot be true inasmuch as both the adverse case and the ground case have taken place on the same day and the detenu was also arrested on the same day. Therefore, the learned counsel submits that the order of detention gets vitiated on this aspect.

4. On a perusal of the grounds of detention, we find that the adverse case in Crime No.92 of 2019 and the ground case in Crime No.93 of 2019 relate to the occurrences on the same day i.e. 02.04.2019 and the detenu was also arrested on the same day. That being so, the detaining authority, in the grounds of detention has stated that the detenu is habitually procuring free rice and other subsidized commodities meant for Public Distribution and he is smuggling the essential commodities habitually with the intention of getting more pecuniary benefit in the black market. Since the adverse case and ground have been registered on the same day i.e. 02.04.2019 and the detenu was also arrested on the same day, it cannot be construed that the detenu is a habitual offender, which shows the non-application of mind by the detaining authority. Therefore, we are of the view that the order of detention is liable to be quashed on this ground.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention memo No.C.No.1/PBMMSEC Act/IS/2019, dated 11.04.2019, passed by the second respondent is set aside. The detenu, S.Samdhasan, S/o. Senthurapandi, aged about 42 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

1. The Secretary to State,
Cooperation, Food & Consumer Department,
Fort St.George, Chennai - 600 009
2. The Commissioner of Police,
Coimbatore City.
3. The Superintendent,
Central Prison, Coimbatore.
4. The Joint Secretary to Government,
Public Law & Order,
Fort St.George, Chennai-9.
5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.1101 of 2019

RSI(CO)
CS/20/09/2019



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