

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2019

Coram

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

H.C.P. No.936 of 2019

Dhanalakshmi ... Petitioner/Wife of detenu

-vs-

1.The State of Tamilnadu,
Rep. By its Secretary to the Govt,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009

2.District Collector and District Magistrate,
Kancheepuram District,
Kancheepuram.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the entire records leading to the detention of the petitioner's husband Vijayan @ Viji, Son of Doss, Male, aged about 41 years is presently lodged in Central Prison, Puzhal at Chennai and has been detained under Act 14/82 as "Bootlegger" vide detention order dated 06.05.2019 on the file of the second respondent herein, made in BCDFGISSSV No.34/2019 and quash the same and consequently direct the respondents herein to produce the body and person of the said detenu before this Court and set him at liberty.

For Petitioner : Mr.M.Rajavelu

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, Vijayan @ Viji, Son of Doss, Male, aged about 41 years. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.34/2019 dated 06.05.2019, holding to be a "Bootlegger", as contemplated under Section 2(b) of Tamil Nadu Act 14 of 1982. 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.Though the learned counsel for the petitioner has raised several other grounds to assail the order of detention, he mainly focused his argument on the ground that there is variation in the translated version at Page No.89 of remand order in the ground case and the vernacular version at Page No.91 of the booklet and, therefore, the impugned order of detention is liable to be quashed.

4.On a careful scrutiny of the impugned order, it is seen that the detaining authority, taking into account the imminent possibility of the detenu being enlarged on bail and the likelihood of the same is prejudicial to the public order and health, has passed the impugned detention order. In the booklet furnished to the detenu, the remand order has not been translated properly and there is variation between the English version at Page No.89 and vernacular version found at Page No.91 of the booklet. Therefore, when there is a variation between English and Tamil Version in respect of the same document, opportunity of clear understanding and making effective representation on such understanding is lost and the detenu is deprived thereof. Thus, the impugned detention order cannot be sustained.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.34/2019 dated 06.05.2019, passed by the second respondent is set aside. The detenu, Vijayan @ Viji, Son of Doss, Male, aged about 41 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

mmi/ssm

To

- 1.The Secretary to the Govt of Tamil Nadu
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009
- 2.The District Collector and District Magistrate,
Kancheepuram District,
Kancheepuram.
- 3.The Superintendent,
Central Prison, Puzhal, Chennai - 66.
- 4.The Joint Secretary to Govt.
Public (Law&Order), Fort.St.George,
Chennai 9.
- 5.The Public Prosecutor,
High Court, Madras.

RSI (CO)
CB(16/09/2019)

सत्यमेव जयते

H.C.P. No.936 of 2019

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