

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2019

Coram

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

H.C.P.No. 1095 of 2019

Usha

.. Petitioner

Vs

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.District Collector and
District Magistrate,
Vellore District, Vellore - 9.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of habeas corpus, calling for the records in connection with the order of detention passed by the second respondent dated 22.05.2019 in Memo No.C3/D.O.No.42/2019 against the petitioner's husband Soundhar, male, aged 41 years, S/o.Raja, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.D.Balaji

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 Soundhar, male, aged 41 years, S/o.Raja, who is the detenu. The detenu has been detained by the second respondent by his order in C3/D.O.No.42/2019 dated 22.05.2019, holding him 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.Learned counsel for the petitioner submits that in arriving at the conclusion of imminent possibility of the detenu being released on bail, the detaining authority has stated that in a similar case, bail was granted by the Principal Sessions Judge, Vellore in Crl.M.P.No.3404 of 2017.

4.A perusal of the impugned order informs that the accused in that case had no previous case against his name, whereas in the instant case, the detenu has five previous cases. Further, the similar case relied upon was registered for the offences under Sections 4(1) (i), 4(1)(aaa), 4(1-A) (ii) of Tamil Nadu Prohibition Act r/w 328 IPC whereas the offence involved in the ground case are under Sections 4(1)(aaa) and 4(1-A) (ii) of TNP Act. Therefore, the detaining authority had erred in treating the case relied upon and the case of the detenu as similar in nature. As the order of the detaining authority reflects non application of mind, the order under challenge is liable to be set aside.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in Memo No.C3/D.O.No.42/2019 dated 22.05.2019 passed by the second respondent is set aside. The detenu, namely, Soundhar, male, aged 41 years, S/o.Raja, is directed to be released forthwith unless his detention is required in connection with any other case.

सत्यमेव जयते

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

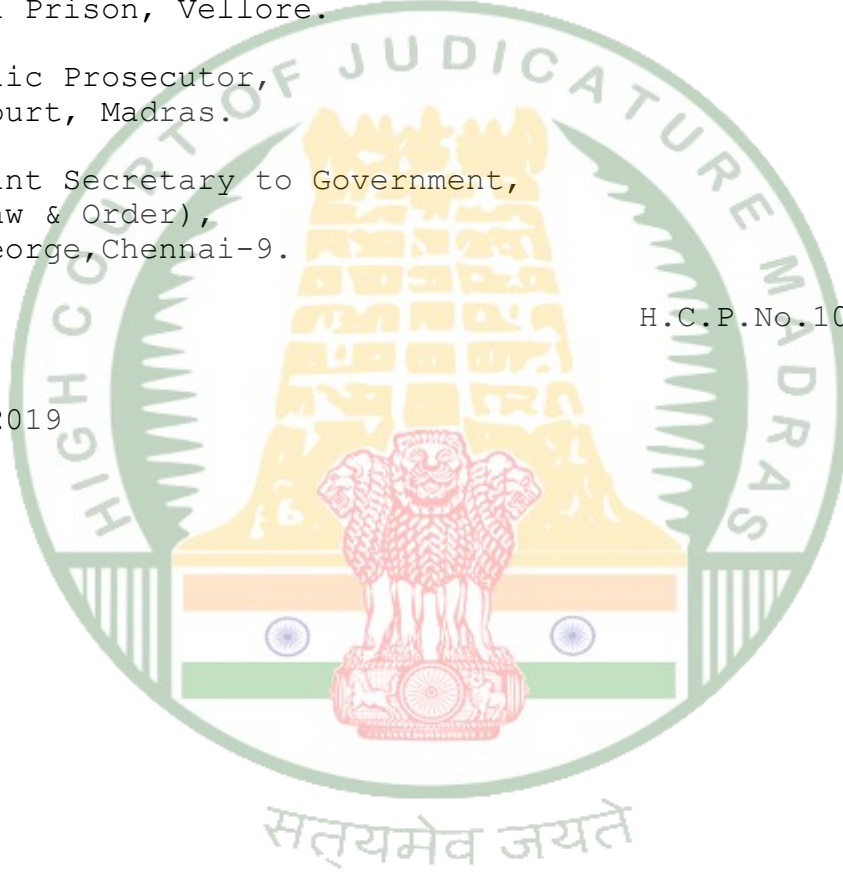
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To:-

- 1.The Secretary to Government,
Home,Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector and
District Magistrate,
Vellore District, Vellore - 9.
- 3.The Superintendent,
Central Prison, Vellore.
- 4.The Public Prosecutor,
High Court, Madras.
5. The Joint Secretary to Government,
Public (Law & Order),
Fort St.George,Chennai-9.

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