

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2019

Coram

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

H.C.P. No.1156 of 2019

Aabitha Begam

... Petitioner

-vs-

1. Government of Tamilnadu,
Rep. By its Secretary,
Co-operation, Food and Consumer
Protection Department,
Fort St.George, Chennai - 600 009

2. The District Collector and District Magistrate
Villupuram District,
Villupuram.

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 110 001

.... 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 R.C.No.C2/12333/2019 dated 14.05.2019 on the file of the 2nd respondent and set aside the same and direct to respondents herein to produce the body of the petitioner's son Syed Abudahir, aged 28 years, son of Mohamed Ali alias Mubarak Ali, the detenu herein now confined in Central Prison, Cuddalore before this Court and set him at liberty.

For Petitioner : Ms.R.Subhadra Devi

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 mother of the detenu Syed Abudahir, Son of Mohamed Ali alias Mubarak Ali, aged about 28 years. The detenu has been detained by the second respondent by his order in R.C.No.C2/12333/2019 dated 14.05.2019, holding to be a "Black Marketeer", as contemplated under the provisions of Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Act No.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 main argument of the learned counsel appearing for the petitioner is that the case relied on by the detaining authority is not similar in nature. Therefore, the likelihood of the detenu coming out on bail is not there and the subjective satisfaction arrived by the detaining authority is not proper.

4.A perusal of the grounds of detention would show that the similar case relied on by the detaining authority is not the same though it is the detenu's own case. In the said case, it has been stated that the detenu was not involved in any previous case at that point of time. Secondly, a certificate was issued by the authority that the seized contraband was not meant for Public Distribution. Thus the facts involved in the similar case relied upon by the detaining authority are not the same. Therefore, there is non-application of mind on the part of the detaining authority in not considering the similar case for arriving at subjective satisfaction. Hence the impugned order of detention is liable to be set aside.

5.In the result, the Habeas Corpus Petition is allowed and the order of detention in R.C.No.C2/12333/2019 dated 14.05.2019 passed by the second respondent is set aside. The detenu, Syed Abudahir, Son of Mohamed Ali alias Mubarak Ali, aged about 28 years, is directed to be released forthwith unless his detention is required in connection with any other case.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

- 1.The Secretary,
Co-operation, Food and Consumer
Protection Department,
Fort St.George, Chennai - 600 009
- 2.The District Collector and District Magistrate
Villupuram District,
Villupuram.
- 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 110 001
- 4.The Joint Secretary to Government
Public (Law and order)
Fort. St. George
Chennai 9.
- 5.The Superintendent,
Central Prison, Cuddalore.
- 6.The Public Prosecutor,
High Court, Madras.

H.C.P. No.1156 of 2019

BP(CO)
SP(17/09/2019)

सत्यमेव जयते

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