

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2019

Coram

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

H.C.P. No.1171 of 2019

G.Saroja ... Petitioner/wife of the detenu

-vs-

- 1.The State Represented by
The District Collector cum District Magistrate,
Villupuram District,
Villupuram.
- 2.The Secretary to Govt,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George, Chennai - 600 009 Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records from the first respondent in T.P.D.A. 3274 dated 30.04.2019 with reference to detention order No.R.C.No.C2/10720/2019 dated 29.04.2019, setting aside the order of detention passed therein and directing the respondent to produce the detenu Gandhi, Son of Annamalai, aged 35 years, before this Court, now detained in Central Jail at Cuddalore and setting him at liberty.

For Petitioner : Mr.V.Gunasekar

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 - Gandhi S/o. Annamalai, aged about 35 years. The detenu has been detained by the first respondent by his order in R.C.No.C2/10720/2019 dated

29.04.2019, 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.Though the learned counsel for the petitioner raised several grounds to assail the impugned order of detention, he mainly focused his argument on the ground that though the detenu has filed a bail application in respect of the ground case before the Court of Sessions, Villupuram Sessions Division, Villupuram in C.M.P.No.2387 of 2019 and the same was dismissed prior to the passing of the detention order, the detaining authority has stated in the grounds of detention that the said bail application is pending. This clearly shows non-application of mind on the part of the detaining authority and hence the impugned order of detention is liable to be quashed.

4.In paragraph 5 of the grounds of detention, the detaining authority has observed that the detenu has filed bail application in C.M.P.No.2387 of 2019 before the Court of Sessions, Villupuram and the same is pending and therefore there is very likely of the detenu coming out on bail in the said case. The detention order was passed on 29.04.2019. Though the bail application filed by the detenu came to be dismissed much prior to the passing of the detention order, the detaining authority failed to take note of the same and observed that there is very likely of the detenu coming out on bail. Hence, we are of the considered view that the detaining authority had passed the impugned order of detention without proper application of mind and the same 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.C2/10720/2019 dated 29.04.2019, passed by the first respondent is set aside. The detenu, Gandhi S/o. Annamalai, aged about 35 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

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

H.C.P. No. 1171 of 2019

LN(CO)
CB(11/10/2019)



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