

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2019

Coram

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

H.C.P. No. 1301 of 2019

Sathiyavani

... Petitioner

-vs-

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

2.The District Collector and District Magistrate of
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 connected with the order of the 2nd respondent herein in BCDFGISSSV No.45/2019 dated 18.06.2019 passed against the petitioner's sister detenu namely Rubavathi, Wife of Murugaperumal, aged about 50 years, who is confined at Central Prison for Women, Puzhal, Chennai - 66 and set aside the same and direct the respondents herein to produce the body and person of the detenu before this Court and set her at liberty.

For Petitioner : Mr.A.Murugavel

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 sister of the detainee, Rubavathi, Wife of Murugaperumal, aged about 50 years. The detainee has been detained by the second respondent by his order in BCDFGISSSV No.45/2019 dated 18.06.2019 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.Amidst several grounds raised by the learned counsel for the petitioner to attack the impugned order of detention, he mainly focused his argument on the ground that despite representation made on behalf of the detainee, the detaining authority failed to furnish the documents relating to similar case relied on by him in PEW Mamallapuram Crime No.497 of 2018 and the other relevant documents in respect of adverse cases. This, according to the learned counsel, deprived the detainee from making effective representation to the Government opposing the order of detention and hence, the order of detention is liable to be quashed.

4.The detaining authority, after referring to the remand of the detainee in the ground case, has chosen to observe that the detainee has filed bail petition in the ground case and the same is pending before the Principal District and Sessions Court, Chengalpattu. The detaining authority relied on the similar case in PEW Crime No.487 of 2018 registered for the prohibition offences and observed that there is a real possibility of the detainee coming out on bail in the ground case. The documents relating to similar case relied on by the detaining authority in PEW Mamallapuram Crime No.497 of 2018 and the other relevant documents in respect of adverse cases have not been furnished to the detainee. Therefore, non-furnishing of the relevant documents relating to the similar case prevented the detainee from making effective representation and 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.45/2019 dated

18.06.2019, passed by the second respondent is set aside. The detinue, Rubavathi, Wife of Murugaperumal, aged about 50 years, is directed to be released forthwith unless her 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 Government,
Home,Prohibition and Excise Department,
Secretariat,
Fort St.George, Chennai - 600 009
- 2.The District Collector and District Magistrate of
Kancheepuram District, Kancheepuram.
- 3.The Superintendent,
Special Prison for Women,Puzhal, Chennai-66.
- 4.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
- 5.The Public Prosecutor,
High Court, Madras.

सत्यमेव जयते

H.C.P. No. 1301 of 2019

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