

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2019

Coram

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

H.C.P. No.1341 of 2019

Thulasi Mani

... Petitioner

-vs-

1. Government of Tamil Nadu rep. by its  
Secretary,  
Co-operation, Food and Consumer  
Protection Department,  
Fort St. George, Chennai - 9.

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

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 Cr.M.P.No.10/Black Marketeer/2019/C1 dated 06.06.2019 on the file of the second respondent and set aside the same and direct the respondents herein to produce the body of petitioner's husband Deepak Kumar @ Deepak, son of Haridass. aged 29 years, the detenu herein now confined in Central Prison, Coimbatore before this Court and set him at liberty.

For Petitioner : Ms.R.Subadra Devi

For Respondents Mr.C.Iyyappa Raj  
: Addl. Public  
Prosecutor for R1 & R2

#### ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner is the wife of the detenu Deepak Kumar @ Deepak, son of Haridass. aged 29 years. The detenu has been detained by the second respondent by his order in Cr.M.P.No.10/Black Marketer/2019/C1 dated 06.06.2019, holding to be a "Black Marketer", as contemplated under the provisions of Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act 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 learned counsel appearing for the petitioner, assailing the order of detention, submits that though the detaining authority relied on the bail order granted to the accomplices of the detenu in the first adverse case in Crime No.123 of 2017, in the booklet furnished to the detenu, only the dismissal order was annexed. Therefore, the order of detention has been passed without application of mind.

4. We have perused the grounds of detention. In paragraph 5 of the grounds of detention, it has been stated that the detenu has moved bail petitions in first, second and fourth adverse cases and ground case in Crime Nos.123 of 2017, 131 of 2017, 134 of 2018 and 62 of 2019 and the same are pending in Crl.M.P.Nos.5863, 5864, 5862 and 5865 of 2019 respectively. It is further stated that the accomplices of the detenu have moved bail petition in the first adverse case in Crime No.123 of 2017 and bail was granted to them in Crl.M.P.No.6893 of 2017 on 11.12.2017 by the Judicial Magistrate No.III, Erode. Though the detaining authority relied on the said bail order, in the booklet furnished to the detenu, copy of the order dismissing the bail petition was annexed, which is totally different from the one relied on by the detaining authority. Therefore, we are of the view that the order of detention is liable to be quashed

on this ground.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.10/Black Marketeer/2019/C1 dated 06.06.2019, passed by the second respondent is set aside. The detenu, Deepak Kumar @ Deepak, son of Haridass. aged 29 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-  
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

mmi/ssm

To

- 1.The Secretary to Government,  
Co-operation, Food and Consumer  
Protection Department,  
Fort St. George, Chennai - 9.
- 2.The District Collector and District  
Magistrate, Erode District,  
Erode.
- 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 Superintendent,  
Central Prison, Coimbatore.
- 5.The Public Prosecutor,  
High Court, Madras.
6. The Joint Secretary the Government  
Public Law & Order,  
Fort St.George, Chennai-9.

H.C.P. No.1341 of 2019

NRL (CO)  
GMY (26/09/2019)