

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice RMT. TEEKAA RAMAN

H.C.P. No. 1386 of 2019

Sandhiya

... Petitioner

-vs-

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

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

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the entire records relating to the petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order dated 29.06.2019 on the file of the second respondent herein made in proceedings Memo Cr.M.P.No.02/Drug Offender/2019 quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely Sathis @ Sathiskumar, S/o.(Late) Kannan, aged 23 years before this Court and set the petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison, Coimbatore.

For Petitioner .. Mr.W.Camyles Gandhi
For Respondents.. Mr.R.Prathap Kumar,
Addl. Public Prosecutor

ORDER

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

The petitioner is the mother of Sathis @ Sathiskumar, S/o. (Late) Kannan, aged 23 years who is the detenu. The detenu has been detained by the second respondent by his order in

Cr.M.P.No.02/Drug Offender/2019 dated 29.06.2019, holding him to be a "Drug Offender", as contemplated under Section 2(e) 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, learned counsel for the petitioner mainly focused his argument on the ground that when there is no bail application filed on behalf of the detenu, nor by the relatives of the detenu in respect of the ground case in Crime No.301 of 2019, there is no imminent possibility of him being released on bail and therefore, the impugned order has been passed without any supporting material. The learned counsel for the petitioner would submit that the year in the crime number of the ground case has been wrongly mentioned in paragraph 3 (ii) of the grounds of detention as Crime No.301 of 2017 instead of 301 of 2019.

4.The learned Additional Public Prosecutor would submit that it is a typographical error and it will not affect the rights of the detenu.

5.For appreciating the contentions raised by the learned counsel for the petitioner, the relevant averments in para 3(ii) of the grounds of detention are extracted below:

"3 (ii)..... Later, the Sub Inspector of Police took the arrested person Thiru.Sathis alias Sathiskumar along with the seized properties went to udumalaipettai Police Station, registered a case in Udumalai Police Station Crime No.301/2017 under Section 8(c) read with 20(b)(ii)(B) of Narcotic Drugs and Psychotropic Substances Act against Thiru.Sathis alias Sathiskumar and then submitted the case to the Inspector of Police, Law and Order, Udumalaipettai Police Station."

6.On a careful scrutiny of the impugned order, it is seen that the detaining authority has arrived at the subjective satisfaction, taking into account the statement of the sponsoring authority that the relatives of the detenu are taking steps to take the detenu on bail in the ground case in Crime No.301 of 2019. There is no material available in the booklet to show that the relatives are taking action to file bail

application for the detenu in the ground case. Apart from that, in para 3 (ii) of the grounds of detention, the year of the crime number of the ground case has also been wrongly mentioned as Crime No.301 of 2017 instead of 301 of 2019. Therefore, the subjective satisfaction arrived at by the detaining authority is not supported by any material and it vitiates the order of detention. For the above reasons, the order of detention is liable to be set aside.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.02/Drug Offender/2019 dated 29.06.2019, passed by the second respondent is set aside. The detenu, namely, Sathis @ Sathiskumar, S/o.(Late) Kannan, aged 23 years is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Dept.,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The District Magistrate and
District Collector, Tiruppur,
Tiruppur District.
- 3.The Superintendent,
Central Prison, Coimbatore.
4. The Joint Secretary to Government,
Public (Law & Order), Fort St.George, Chennai-9.

5.The Public Prosecutor,
High Court, Madras.

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