

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2019

Coram

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

H.C.P. No. 1716 of 2019

Kalaiaarasi

... Petitioner

-vs-

1.The State of Tamil Nadu
Rep. By its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The District Collector and District Magistrate,
of Vellore District,
Vellore - 9.

... 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 petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order dated 30.07.2019 on the file of the second respondent herein made in proceedings C3/D.O.No.88/2019 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's husband namely Singaram, Son of Muniraj, aged 37 years, before this Court and set the petitioner's husband at liberty from detention, now petitioner's husband detained at Central Prison, Vellore.

For Petitioner : Mr.C.C.Chellappan

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 wife of the detenu, Singaram, Son of Muniraj, male, aged 37 years. The detenu has been detained by the second respondent by his order in C3/D.O.No.88/2019 dated 30.07.2019, 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. 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 and the offence in the ground case are totally different. 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. For appreciating the contentions raised by the learned counsel for the petitioner, the relevant averments in para 5 of the grounds of detention are extracted below:

"5. I am aware that Thiru Singaram was produced before the Judicial Magistrate No.1, Tirupathur on 07.07.2019 in connection with ground case in Tirupathur Prohibition Enforcement Wing Crime No.278/2019 u/s 4(1)aaa, 4(1-A)ii TNP Act 1937 r/w 328 IPC and Section 6,7 TNRS Rules 2000 and ordered to be remanded till 19.07.2019 and lodged him at Central Prison, Vellore as remand prisoner. Further his remand period was extended upto 02.08.2018.

I am aware that Thiru. Singaram filed a bail application in ground case Tirupathur Prohibition Enforcement Wing Crime No.278/2019, u/s 4(1)aaa, 4(1-A)ii TNP Act 1937 328 IPC and Section 6,7 TNRS Rules 2000 before the Court of Principal Sessions Judge, Vellore in Crl.M.P.No.3503/2019 and the same is pending before the Court. As far as the ground case is concerned, in a similar case registered at Ranipet Prohibition Enforcement Wing Cr.No.514/2017 u/s 4(1)aaa, 4(1-A)ii Tamil Nadu Prohibition Act r/w Sec.7 of

Tamil nadu Rectified Spirit Rules, 2000 bail was granted by the Principal Sessions Court, Vellore in Crl.M.P.No.4828/2017 to one Tmt. Amudha on 21.12.2017. As bails are being granted by courts in such cases, there is a real possibility of his (Thiru. Singaram) coming out on bail, in the above pending bail application before the Court. If he is enlarged himself on bail, he would indulge in further activities which will be prejudicial to the maintenance of public order and public health."

5. From a perusal of the detention order, it is seen that the detaining authority has taken into consideration the similar case registered at Ranipet Prohibition Enforcement Wing Cr.No.514/2017 u/s 4(1)aaa, 4(1-A)ii Tamil Nadu Prohibition Act r/w Sec.7 of Tamil Nadu Rectified Spirit Rules, 2000 bail was granted by the Principal Sessions Court, Vellore in Crl.M.P.No.4828/2017 to one Tmt. Amudha on 21.12.2017 and therefore, there is a real possibility of the detenu coming out on bail in the ground case in Crime No.278/2019 and indulge in such activities prejudicial to the maintenance of public order. The similar case relied on by the authority was registered for the offences 4(1)aaa, 4(1-A)ii Tamil Nadu Prohibition Act r/w Sec.7 of Tamil nadu Rectified Spirit Rules, 2000, whereas the offences involved in the ground case are under Section 4(1)aaa, 4(1-A)ii TNP Act 1937 r/w 328 IPC and Rules 6 and 7 of TNRS Rules 2000. 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.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in C3/D.O.No.88/2019 dated 30.07.2019, passed by the second respondent is set aside. The detenu, namely, Singaram, Son of Muniraj, male, aged 37 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

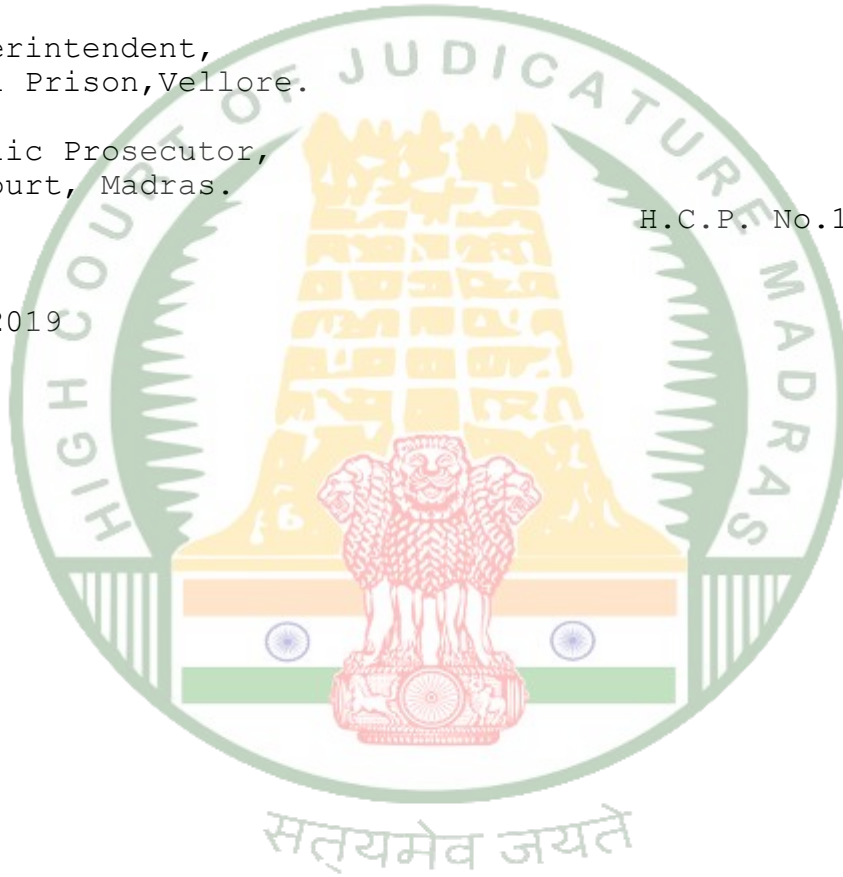
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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
of Vellore District,
Vellore - 9. .
- 3.The Superintendent,
Central Prison,Vellore.
- 4.The Public Prosecutor,
High Court, Madras.

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