

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2019

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P.No.2044 of 2019

Gandhimathi
W/o.Karuppannan

... Petitioner/Mother of the Detenue

Vs

The State represented by its

1.The Secretary to Government (Home),
Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 600009.

2.The District Collector and District Magistrate,
Office of the District Collector and District
Magistrate,
Erode District, Erode.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records of the detention order dated 01.08.2019 in Cr.M.P.No.17/Bootlegger/2019/C1 passed by second respondent and consequential Erratum order dated 08.08.2019 bearing No.Cr.M.P.No.12 to 19/Bootlegger/2019/C1 and quash the same and produce the detenu Kumar, aged 29 years, S/o.Karuppannan, before this Court and set him at liberty forthwith from Central Prison, Coimbatore.

For Petitioner : Mr.R.Thirumoorthy
For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor

O R D E R

[Order of this Court was made by R.SUBBIAH, J]

Petitioner is the mother of the detenu viz., Kumar, S/o.Karuppannan, aged 29 years, who has been branded as a 'Bootlegger' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in Cr.M.P.No.17/Bootlegger/2019/C1 dated 01.08.2019.

2. The alleged ground case has been registered against the detenu on 14.07.2019, by the Inspector of Police, Erode Town Prohibition Enforcement Wing, in Crime No.605 of 2019 for offences under Sections 4(1)(aaa), 4(1-A), 4(1)(b), 4(1)(g), 4(1)(h) of Tamil Nadu Prohibition Act and Sections 5, 6 and 7 of Tamil Nadu Rectified Spirit Rules and Sections 420, 467, 468 and 471 IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Heard learned counsel for petitioner and learned Additional Public Prosecutor appearing for respondents. Perused the materials on record.

4. Though several grounds have been raised in the Habeas Corpus Petition, learned counsel for petitioner would mainly focus his argument on the ground that the arrest of the detenu has not been intimated to his blood relatives. In support of his contention, learned counsel invited the attention of this Court to Page No.35 of the Booklet - Arrest Intimation Form, wherein the signature of the witness has not been obtained, instead it is mentioned as 'SMS SENT THROUGH 9003556535', which would vitiate the detention.

5. We have heard learned Additional Public Prosecutor on the above submissions.

6. In the light of the fact that proper procedure has not been followed in intimating the arrest of the detenu to his blood relative, we have no hesitation in quashing the order of detention.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Kumar, S/o.Karuppannan, in Cr.M.P.No.17/Bootlegger/2019/C1 dated 01.08.2019, is quashed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

To

1. The Secretary to Government (Home),
Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 600009.
2. The District Collector and District Magistrate,
Office of the District Collector and District
Magistrate,
Erode District, Erode.
3. The Superintendent,
Central Prison, Coimbatore.
4. The Public Prosecutor,
High Court, Madras.
5. The Joint Secretary
Public (law and order)
Fort.St. George
Chennai 9.

H.C.P.No.2044 of 2019

VGII (CO)
SP(23/01/2020)