

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.03.2019
CORAM:
THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR
H.C.P.No.2752/2018

Kalaiyarasi

..

Petitioner/Wife of the detenu

vs.

1.The Secretary to the Government
Home, Prohibition & Excise Department
Secretariat, Chennai 600 009.

2.The District Collector & District Magistrate
Kancheepuram District, Kancheepuram.

..

Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the records in connection with the order of detention passed by the 2nd respondent dated 13.11.2018 in BCDFGISSSV No.91/2018 against the petitioner husband Ganesan, Male, aged 48 years, son of Ponnukannu, who is confined in Central Prison, Vellore, and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner .. Mr.S.Senthil Vel for
Mr.E.N.Neelamoorthy
For Respondents.. Mr.C.Iyyappa Raj, APP

ORDER

(Order of the Court was made by M.SATHYANARAYANAN, J)

The petitioner is the wife of the detenu herein and challenging the legality of the impugned order of detention dated 13.11.2018 passed by the 2nd respondent, in and by which, the detenu has been branded as a 'Bootlegger' under the provisions of section 3[1] of the Tamil Nadu Prevention of dangerous activities of Boot leggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982), came forward to file the present habeas corpus petition.

2 As per the Grounds of Detention dated 13.11.2018 passed by the 2nd respondent herein, the detenu came to the adverse notice in the following cases:-

i)Adverse cases:

Sl No .	Name of the Police station and Crime No.	Section of law
1	Walajabad PS Cr.No.16/2018	4[1][aaa], 4[1-A] TNP Act, r/w sections 6 & 11 of Tamil Nadu Rectified Spirit Rules, 2000 Transporting
2	Walajabad PS Cr.No.513/2018	4[1][a], 4[1-A] TNP Act, r/w sections 6 & 11 of Tamil Nadu Rectified Spirit Rules, 2000 Transporting

3 It is further averred in the Grounds of Detention dated 13.11.2018 that at about 05.00 hours on 16.10.2018, the Inspector of Police attached to Walajabad Police Station, on getting reliable information along with the police party, was conducting vehicle check and halted a Tata Indica Car bearing Regn.No.TN-07-AE-6302 and a male and a female got down from the car and tried to flee away from the scene of crime and one of them was apprehended and he revealed his name as Ganesan [detenu herein] and his wife as Kalaiyarasi. The vehicle was also searched and it was found transporting 5 Nos of white coloured plastic cans each capacity of 35 litres containing diluted rectified spirit and the detenu was arrested for possessing and transporting the rectified spirit and Kalaiyarasi-the petitioner herein/A-2 also admitted the commission of the offence. They came forward to give confession statements which were recorded in the presence of the witnesses. Samples were drawn and the chemical analysis would reveal that it contained poisonous substance. Both the accused were brought to Walajabad Police Station at about 13.00 hours and a case in Crime No.559/2018 for the offences u/s.4[1][aaa] and 4[1-A] of TNP Act read with 6 and 11 of Rectified Spirit Rules 2000 Transporting came to be registered. Both the accused were produced before the Court of Judicial Magistrate No.2, Kancheepuram on 16.10.2018 and were remanded to judicial custody till 30.10.2018. The Detaining Authority on a perusal and consideration of the materials has derived the subjective satisfaction that the activities of the detenu was prejudicial to the maintenance of the public health and order and as such, branded him as a 'Bootlegger' and detained 'him under the provisions of the Tamil Nadu Act 14 of 1982, by clamping the impugned order of detention and

challenging the legality of the same, the present petition is filed.

4 The learned counsel for the petitioner has drawn the attention of this Court to page No.127 of the Booklet supplied to the detenu and would submit that the Arrest Intimation Form was made available to the detenu and the details regarding the name and address of the arrested person as well as the sections of law as well as the tabular column are given in English language and the detenu, having inadvertent to English language, in fact had signed the said Memo/Intimation in Tamil only and on account of non-furnishing of the vernacular version of the same, the detenu has been put to prejudice and is prevented from making an effective representation for revoking the impugned order of detention and therefore, prays for quashment of the same.

5 Per contra, Mr.C.Iyyappa Raj, learned Additional Public Prosecutor appearing for the State would submit that the Arrest Card has been given in Tamil and the relevant details in the Arrest Intimation Form had also been given in Tamil and as such, it cannot be said that the detenu has been put to prejudice on account of non-furnishing of the vernacular / translated version of the Arrest Intimation and hence, prays for dismissal of this petition.

6 This Court has considered the rival submissions and also perused the materials placed before it.

7 A perusal of the Arrest Intimation Form, which is made available at page No.127 of the Booklet would indicate that the name and address of the arrested person as well as the sections of law are given in English ; so also the relevant columns and admittedly, the detenu has subscribed his signature in the Arrest Intimation in Tamil and as such, it is obligatory on the part of the Detaining Authority to give the vernacular version of the same. It is also to be noted at this juncture that the Arrest Intimation Form was also a relied upon document on the part of the Detaining Authority to derive the subjective satisfaction and in the absence of the translated version of the same, the detenu has been put to prejudice in making an effective representation for revoking the impugned order of detention and hence, on this sole ground, the impugned order of detention warrants interference.

8 In the result, the Habeas Corpus Petition is allowed and the impugned order of detention passed by the 2nd respondent dated 13.11.2018 is hereby set aside. The detenu who is now confined in the Central Prison, Vellore, is directed to be

released forthwith unless his presence [or] custody [or] detention is required in connection with any other case/proceedings.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

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

H.C.P.Nos.2752/2018

nr 12/06/2019

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