



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH
AND
THE HONOURABLE MR. JUSTICE B. PUGALENDHI

H.C.P. (MD) No.230 of 2019

S.Latha

: Petitioner/
wife of detenu

Vs.

1.The Additional Chief Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai-9.

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

3.The Superintendent of Prison
Central Prison,
Trichy

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the records in connection with the order of detention passed by the second respondent dated 31.01.2019 in Cr.M.P.No.02/2019, against the petitioner's husband Selvaraj, son of Ramasamy, aged about 47 years, who is confined at Central Prison, Tiruchirappalli and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.R.Anand

For Respondents : Mr.M.Chandrasekaran
Additional Public Prosecutor

ORDER

P. N. PRAKASH, J

The petitioner is the wife of the detenu viz., Selvaraj, S/o.Ramasamy, aged about 47 years. The detenu has been detained, as per the order of the second respondent, dated 31.01.2019, under Section 2(f) of the Tamil Nadu Act 14 of 1982, branding him as "GOONDA". Challenging the same, the petitioner is before this Court in this Habeas Corpus Petition.



2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records carefully.

3. We have considered the submissions made by the learned counsel for the petitioner and the learned Additional Public Prosecutor for the State and perused the grounds of the detention order and connected materials.

4. Upon perusing the grounds of detention, it is seen that on intelligence, the police raided the godown of one Kongumani @ Subramani (A-3) on 15.01.2019 and seized a huge haul of Gutka, Pan Masala and other items weighing 6600 kgs and registered a case in Crime No.12/2019 under Sections 273, 328 IPC and Sections 7, 20(i) of Cigarettes and other Tobacco Products Act 2003 and Sections 57 and 59 of Food Safety and Standards Act against one Thangaraj (A-1), Selvaraj (A-2) and Kongumani (A3). It is seen that Selvaraj (A-2) was an employee of Kongumani (A-3) and Kongumani (A-3) was not arrested, but was released on anticipatory bail, whereas, the detention order has been clamped on Thangaraj (A-1) and Selvaraj (A-2) on 31.01.2019.

5. The learned counsel for the petitioner submitted that the bail applications of the detenu Selvaraj has been dismissed by the Sessions Court as well the High Court, whereas, the Detaining Authority, in the grounds of detention, has relied upon the bail order in CrI.O.P.No.20526 of 2018 dated 16.11.2018 passed by this Court in favour of Abdul Kadhar @ Khan, wherein, in Paragraph No.2, it is stated as follows:

"2.The case of the prosecution is that the petitioner was running a petty shop. He said to have sold a small tobacco packet to the defacto complainant and after consuming the same, the defacto complainant vomitted and felt giddiness, for which, the defacto complainant lodged a complaint."

6. Thus, bail was granted to Abdul Kadher @ Khan on the premise that he was found selling small tobacco packets and was in judicial custody from 24.10.2018, whereas, consistently, the Sessions Court and the High Court dismissed the bail applications of the detenu herein and therefore, there is no imminent possibility of the detenu being released on bail and the comparison of the case of Abdul Kadher is misplaced. We find sufficient force in this submission of the learned counsel for the petitioner and hence, the detention order is set aside.

7. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in Detention Order in Cr.M.P.No.02/2019 dated 31.01.2019 is quashed. The detenu, namely Selvaraj, S/o.Ramasamy



aged about 47 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

- 1.The Additional Chief Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai-9.
- 2.The District Magistrate and District Collector
Karur District, Karur
- 3.The Superintendent of Prison
Central Prison,
Trichy.
- 4.The Joint Secretary to Government,
Public(Law & Order), Fort Saint George,
Chennai-9.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO Mr.R.Anand, Advocate, Sr No.64807

Order made in
H.C.P. (MD) No.230 of 2019
Dated: 30.04.2019

RR
MS/28.05.2019/3P/7C