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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.06.2019

CORAM:

**THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and**

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P. (MD) No.55 of 2019

K.Bala

... Petitioner

Vs.

- 1.The Deputy Inspector General of Police,
Tirunelveli Range and Commissioner of Police,
Tirunelveli City (Full Additional Charge),
Tirunelveli.
 - 2.The Secretary to Government,
Food, Co-Operation and Consumer Protection Department,
Secretariat, Chennai - 9.
 - 3.The Secretary to Government of India,
Department of Consumer Affairs,
Food and Consumer Affairs Department,
Room No.270, Krishi Bhavan,
New Delhi - 110 001.
 - 4.The State represented by
Inspector of Police,
Civil Supplies,
Criminal Investigation Department,
Tirunelveli,
Tirunelveli District.
 - 5.Jailer / Additional Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelvlei District.
- ... Respondents

PRAYER:- Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the records relating to the impugned detention order of the 1st respondent passed in his proceedings in No.1/BM/2019, dated 02.01.2019 and quash the same and set the detenu namely Mr.Kombaiah, S/o.Esakkithevar, aged about 46 years now confined at 5th respondent's Central Prison, Palayamkottai at liberty.



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For Petitioner : Mr.B.Prahalad Ravi
For Respondents : Mr.K.Dinesh Babu
1,2,4 & 5 Additional Public Prosecutor
M.Karunanithi, Senior Panel Counsel for R3

ORDER

(Order of the Court was made by **B.PUGALENDHI, J**)

The petitioner is the wife of the detenu namely Kombaiah and challenge is made to the order of detention dated 02.01.2019 passed by the first respondent, under which, the detenu has been branded as " Black Marketer" and detained under Section 3(1) read with 3(2) (b) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act 7 of 1980)

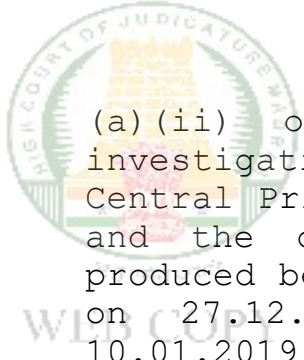
2. A perusal of the Grounds of Detention dated 02.01.2019, passed by the first respondent herein would disclose that the detenu, viz., Kombaiah came to the adverse notice in the following five cases:-

Sl. No.	Name of the Police Station and Crime No.	Sections of Law
1.	Tirunelveli Unit Civil Supplies Criminal Investigation Department (Cr No.16 of 2017)	6(4) of Tamil Nadu Scheduled Commodities (Regulation of Distribution by Card System) order 1982 r/w 7(i) (a) (ii) of Essential Commodities Act, 1955.
2.	Tirunelveli Unit, Civil Supplies Criminal Investigation Cr.No.68 of 2017	6(4) of Tamil Nadu Scheduled Commodities (Regulation of Distribution by Card System) order 1982 r/w with 7(i) (a) (ii) of Essential Commodities Act



3.	Tirunelveli Unit, Civil Supplies Criminal Investigation Department Cr.No.139 of 2017	6(4) of Tamil Nadu Scheduled Commodities (Regulation of Distribution by Card System) order 1982 r/w 7(i)(a)(ii) of Essential Commodities Act, 1955.
4	Tirunelveli Unit, Civil Supplies Criminal Investigation Department Cr.No.151 of 2017	6(4) of Tamil Nadu Scheduled Commodities (Regulation of Distribution by Card System) Order 1982 r/w 7(i)(a)(ii) of Essential Commodities Act, 1955.
5	Tirunelveli Unit, Civil Supplies Criminal Investigation Department Cr.No.247 of 2018	6(4) of Tamil Nadu Scheduled Commodities (Regulation of Distribution by Card System) Order 1982 r/w 7(i)(a)(ii) of Essential Commodities Act, 1955

3.The grounds of detention further read that based on a secret information about smuggling of the essential commodities, on 21.12.2018 at about 07.00 hours, the Sub Inspector of Police, Civil Supplies Criminal Investigation Department, Tirunelveli Unit conducted vehicle check in front of Annapoorna Hotel, Market, Palayamkottai and they intercepted a Maruti Omni Van bearing registration No.TN 04 C 0792 and found 500 kgs of rice meant for Public Distribution System in 10 bags of 50 Kgs each without any documents and the Driver of the vehicle Vinothkumar was arrested at 07.30 hours and on enquiry he stated that he along with Kombaiah (the detenu herein), son of Esakki Thevar, used to sell the ration rice to one Rajan of Kerala and he further stated that they purchase the rice from ration shops and general public at a price of Rs.5/- per kg and hoard them at the place of Kombaiah in Mailappapuram for smuggling to Kerala and share the profit. In this backdrop, a case was registered in Crime No.248 of 2018 under Section 6(4) of Tamil Nadu Scheduled Commodities (Regulation of distribution by card system) Order 1982 read with Section 7(i)



(a)(ii) of the Essential Commodities Act, 1955 and the investigation revealed that the detenu was already confined at Central Prison, Palayamkottai in connection with Cr.No.247 of 2018 and the detenu was formally arrested on 24.12.2018 and was produced before the learned Judicial Magistrate No.II, Tirunelveli on 27.12.2018 and was remanded to judicial custody till 10.01.2019.

4.The detaining authority being satisfied with the materials placed by the sponsoring authority that the activities of the detenu are prejudicial to the maintenance of supplies of essential commodities to the community, clamped the order of detention.

5.The learned counsel for the petitioner would submit that the detention order of the co-accused namely Vinoth Kumar S/o. Varadhappan has not been approved by the Government and as a sequel, the said detention order of the co-accused has also been revoked by the Commissioner of Police, Tirunelveli. In support of his contention, the learned Counsel for the petitioner also produced a copy of the communication dated 11.01.2019 in letter No.180/E2/2019, sent by the Principal Secretary to Government, Corporation, Food and Consumer Protection Department, Secretariat, Chennai and a copy of the proceedings dated 12.01.2019 in No.Nu.B./C.1/14/2019 passed by the Commissioner of Police, Tirunelveli and hence, prays for quashment of the impugned detention order.

6.This Court has carefully considered the rival submissions on either side and perused the materials placed on record.

7. A perusal of orders passed in respect of the co-accused would disclose that the detention order of the co-accused has not been approved by the Government and subsequently, the Commissioner of Police, Tirunelveli has also revoked the said detention order. In view of the detention order of the co-accused having been revoked, this Court is of the view that the impugned order is liable to be quashed.

8.In the result, this Habeas Corpus Petition is allowed and the impugned order of detention in No.1/ BM/2019, dated 02.01.2019 passed by the first respondent is quashed. The detenu namely Kombaiah, son of Esakkithevar is directed to be set at liberty forthwith, unless his detention / remand is required in connection with any other case / proceedings.

Sd/-

Assistant Registrar

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To

- 1.The Deputy Inspector General of Police,
Tirunelveli Range and Commissioner of Police,
Tirunelveli City (Full Additional Charge),
Tirunelveli.
- 2.The Secretary to Government,
Food, Co-Operation and Consumer Protection Department,
Secretariat, Chennai - 9.
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Civil Supplies,
Criminal Investigation Department,
Tirunelveli,
Tirunelveli District.
- 5.Jailer / Additional Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelvlei District.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
7. The Superintendent,
Central Prison, Palayamkottai.

+1 CC to M/s.M.KARUNANITHI, Advocate (SR-67354[F] dated
07/06/2019)

H.C.P.(MD)No.55 of 2019
07.06.2019

AM/SAR/09.08.2019/ 5P 9C