



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.09.2019

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WEB COPY

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

H.C.P (MD)No.266 of 2019

Geetha

...Petitioner

Vs.

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

2.The District Collector and District Magistrate
Tiruchirapalli District
Tiruchirapalli

3.The Superintendent of Prison
Central Prison
Tiruchirapalli

...Respondents

PRAYER: This Habeas Corpus Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, calling for the records pertaining to the impugned detention order passed by the 2nd respondent made in his proceedings in Cr.M.P.No.08/2019 dated 16.03.2019 in detaining the detainee under Section 2(b) of the Tamil Nadu Act 14/1982 as a Boot Legger and quash the same and direct the respondents to produce the Detenue namely Karthi S/o.Selvam, Male, aged about 29 years, who is detained in Central Prison, Trichy before this Court and set him at liberty.

For Petitioner

:Mr.K.M.Karunakaran

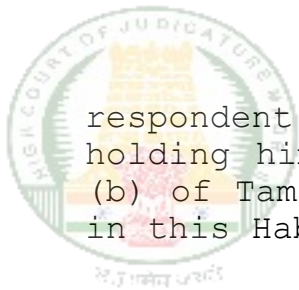
For Respondents

: Mr.K.Dinesh Babu

Addl. Public Prosecutor

O R D E R

The petitioner is the wife of the detainee, namely, Karthi, aged about 29 years. The detainee has been detained by the second



respondent by his order in Cr.M.P.No.8 of 2019, dated 16.03.2019 holding him to be a "Boot Legger", 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. The learned counsel for the Petitioner submitted that the detention order has been passed based on a ground case that was registered in Crime No.121 of 2019, for the offence under Sections 4 (1)(aaa) r/w 4(1-4) of TNP Act r/w Sections 465, 468 and 471 I.P.C. He further submitted that the bail petition that was filed by the detainee was dismissed on 07.03.2019 and the second bail application was pending. While coming to the subjective satisfaction, regarding imminent possibility of the petitioner being released on bail, the Detaining Authority has taken note of the fact that he is likely to come out on bail in the above case. The above observation of the Detaining Authority is a clear non application of mind and the same is a predetermined approach. Therefore, the learned counsel submitted that the detention order suffers from non application of mind.

3. Heard the learned Additional Public Prosecutor appearing for the respondents.

4. On a reading of the Detention Order, we find that the subjective satisfaction was arrived without any supporting material. Neither the bail petition filed by the co-accused or by the accused who are involved in similar cases, has been referred and therefore, there is no material to substantiate that there is a real possibility of the detainee coming out on bail and the said order was passed mechanically without application of mind. Therefore, the order of detention is liable to be interfered with.

5. 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.08/2019, dated 16.03.2019, is quashed. The detainee, namely Karthi, S/o.Selvam, aged 29 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

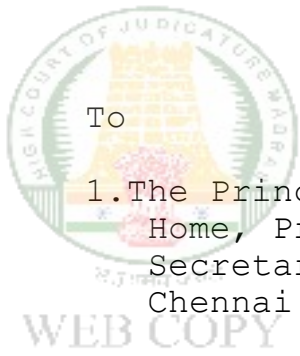
Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

msa



To

- 1.The Principal Secretary to the Government
Home, Prohibition and Excise Department
Secretariat
Chennai 600 009
- 2.The District Collector and District Magistrate
Tiruchirapalli District
Tiruchirapalli
- 3.The Superintendent of Prison
Central Prison
Tiruchirapalli
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Joint Secretary to Government,
Public (Law and Order),
Fort St. George, Chennai - 9

ORDER MADE IN
H.C.P (MD) No.266 of 2019
12.09.2019

JMN(30.09.2019) 3P : 6C