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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2019

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P(MD)No.83 of 2019

P.Sumathi

... Petitioner

Vs.

1.The Principal Secretary to Government,
State of Tamil Nadu,
Home Prohibition and Excise Department,
Fort St.George, Chennai-600 009.

2.The District Collector and District Magistrate,
O/o the District Collector and District Magistrate,
Madurai District, Madurai.

3.The Superintendent,
Central Prison,
Madurai District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the entire records in detention order passed in B.C.D.E.G.I.S.S.S.V.No.14/2018, dated 22.12.2018, on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's husband namely Prakash, S/o Thangaraj, male, aged 32 years, who is detained in Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.M.Maha Raja
For Respondents : Mr.K.Dinesh Babu
Additional Public Prosecutor
* * * * *

ORDER

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

The petitioner is the wife of the detenu and challenging the impugned order of detention dated 22.12.2018, passed by the second respondent, under Section 3(1) of Dangerous Activities of Bootleggers, Drug-offenders, Forest-offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) and branding him as



'Bootlegger' in Detention Order B.C.D.E.G.I.S.S.S.V.No.14/2018, dated 22.12.2018, has filed the present Habeas Corpus Petition.

2. A perusal of grounds of detention order, dated 22.12.2018 would disclose that the order of detention came to be passed on the solitary incident, registered by Thirumangalam Prohibition Enforcement Wing in Cr.No.1388 of 2018, for the commission of offences under Sections 4(1)(a), 4(1-A), 14(A) TNP Act r/w 328, 420, 468 and 471 I.P.C. and 5, 6 and 7 Tamil Nadu RS Rule, 2000. The detenu was arrested on 03.11.2018 at about 15.00 hours and he was produced before the Court of Judicial Magistrate, Thirumangalam and was remanded to judicial custody upto 18.11.2018 and his remand period was lastly extended till 28.12.2018.

3. The detaining authority, on being satisfied with the materials placed by the sponsoring authority that the activities of the detenu are prejudicial to the maintenance of public order, clamped the order of detention and making a challenge to the same, the present Habeas Corpus Petition has been filed by the petitioner.

4. The learned Counsel appearing for the petitioner has drawn the attention of this Court to the grounds of detention as well as the booklet and would submit that for extension of remand of the detenu between 18.11.2018 and 14.12.2018, no material whatsoever, has been placed and even for the sake of arguments, the said materials have been placed before the detaining authority, the copies of the same have not been furnished to the detenu and therefore, the above said infirmities would vitiate the impugned order of detention and hence, prays for quashment of the impugned order of detention.

5. Per contra, the learned Additional Public Prosecutor appearing for the State would submit that the detaining authority, on proper application of mind, has taken into consideration all the materials and the report submitted by the sponsoring authority, has passed the detention order and hence, prays of dismissal of the Habeas Corpus Petition.

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

7. As rightly pointed out by the learned Counsel appearing for the petitioner, the extension of remand of the detenu between 18.11.2018 and 14.12.2018, no material whatsoever is available in the booklet and even for the sake of arguments, the said materials have been placed before the detaining authority to arrive at subjective satisfaction, the copies of the same, have not been furnished to the detenu and the same would exhibit not only the non-application of mind on the part of the detaining authority, but also depriving the detenu of his right to make an effective representation for revoking the order of detention and therefore,



the impugned order of detention warrants interference.

8. In the result, this Habeas Corpus Petition is allowed and the order of detention in detention order in B.C.D.E.G.I.S.S.V.No.14/2018, dated 22.12.2018 passed by the second respondent, is quashed and the detenu namely Prakash, S/o Thangaraj, is directed to be set at liberty forthwith, unless his remand/detention is required, in accordance with law, in connection with any other case/proceedings.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

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To

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Home Prohibition and Excise Department,
Fort St.George, Chennai-600 009.
- 2.The District Collector and District Magistrate,
O/o the District Collector and District Magistrate,
Madurai District, Madurai.
- 3.The Superintendent,
Central Prison, Madurai District.
4. The Joint Secretary to Govt.
Public (Law and order),
Fort St. George Chennai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P(MD)No.83 of 2019

03.06.2019

KG(CO)

TR (06.08.2019) 3P 6C