



WEB COPY

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.1653 of 2018

Pavunachi

... Petitioner

-vs-

1. State of Tamil Nadu, rep.by
The Principal Secretary to Government
Home, Prohibition and Excise Department
Fort.St.George, Chennai-9
 2. The District Collector and District Magistrate
O/o.The District Collector and District Magistrate
Nagapattinam District, Nagapattinam
 3. The Superintendent
Central Prison, Tiruchirappalli
- ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus calling for the entire records in detention order passed in C.O.C.No.57/2018 dated 09.11.2018 on the file of the 2nd 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 Kothandam, son of Vanathan, male, aged 48 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.K.A.S.Prabhu

For Respondents : Mr.M.Chandrasekaran

Additional Public Prosecutor

O R D E R

[Order of the Court was made by B.PUGALENDHI, J.]

The second respondent clamped an order of detention on 09.11.2018, as against Kothandam, son of Vanathan, as the said Authority arrived at the subjective satisfaction that the said detenu is a 'Boot-Legger' and he has to be detained under Section 3 (1) of Tamil Nadu Act 14 of 1982 with a view to prevent him from acting prejudicial to the interest of public health and public order.

2. Challenging the order of detention, the wife of the detenu has come forward with the present habeas corpus petition.

<https://hcservices.ecourts.gov.in/hcservices/>

3. Heard Mr.K.A.S.Prabhu, learned counsel appearing for the petitioner and Mr.M.Chandrasekaran, learned Additional Public



Prosecutor appearing for the respondents and carefully perused the records.

4. As rightly contended by the learned counsel for the petitioner, on 09.10.2018, the petitioner was arrested and remanded to custody in the ground case, namely, Sirkazhi Prohibition Enforcement Wing Crime No.870 of 2018. While he was in custody, he was placed under formal arrest on 30.10.2018 in the adverse case, namely, Putupattinam Police Station Crime No.158 of 2018. However, in Paragraph No.5 of the impugned detention order, there is no reference to the likelihood of the petitioner being released on bail in the adverse case, namely, Putupattinam Police Station Crime No.158 of 2018. Thus, there was non-application of mind on the part of the detaining authority and on this short ground alone, the impugned detention order is liable to be set aside.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.O.C.No.57/2018 dated 09.11.2018, passed by the second respondent, is set aside. The detenu, namely, Kothandam, son of Vanathan, is directed to be released forthwith unless his detention is required in connection with any other case.

sd/

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort.St.George, Chennai-9.
2. The District Collector and District Magistrate,
O/o.The District Collector and District Magistrate,
Nagapattinam District, Nagapattinam.
3. The Superintendent,
Central Prison, Tiruchirappalli.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
5. The Joint Secretary to Government,
Public(LAw&Order),
Fort St. George,
Chennai 9

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