

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P.No.2059 of 2019

Saroja
W/o.Chandran

... Petitioner

Vs

1.The District Collector and District Magistrate,
Thiruvannamalai District.

2.Government of Tamil Nadu,
represented by its Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600009.

3.The Inspector of Police,
Thanipadi Police Station,
Thiruvannamalai District.
Crime No.381 of 2019

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records in connection with the order of detention passed by first respondent dated 27.08.2019 in D.O.No.69/2019-C2 against the petitioner's husband viz., Chandiran, Male, aged 36 years, S/o.Manickkam, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Silambu Selvan

For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor

O R D E R

[Order of this Court was made by R.SUBBIAH, J]

Petitioner is the wife of the detenu viz., Chandiran S/o.Manickkam, aged 36 years, who has been branded as a 'Bootlegger' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in D.O.No.69/2019-C2 dated 27.08.2019.

2019 on the file of Thanipadi Police Station for offences under Sections 4(1)(aaa) r/w 4(1-A)(ii) TNP Act, 1937 @ 4(1)(aaa) TNP Act, 1937. The alleged ground case has been registered against the detenu in Crime No.381 of 2019 on the file of Thanipadi Police Station for offences u/s.328 IPC and 4(1)(i) r/w 4(1-A)(ii) TNP Act, 1937. Aggrieved by the order of detention, the present writ petition has been filed.

3. Heard learned counsel for petitioner and learned Additional Public Prosecutor appearing for respondents. Perused the materials on record.

4. Learned counsel for petitioner submits that the while observing that the bail application filed by the detenu in the ground case is pending, the detaining authority has informed a real possibility of the detenu coming out on bail since in a similar case bail was granted by learned District Sessions Judge, Tiruvannamalai, in CrI.M.P.No.2206 of 2015 in respect of Crime No.376 of 2015 on the file of Tiruvannamalai Prohibition Enforcement Wing, for offences u/s.4(1)(i) r/w 4(1-A) TNP Act, 1937 @ 4(1)(i), 4(1)(aaa) r/w 4(1-A) (ii) TNP Act. Learned counsel submits that in the case cited as similar, the offences alleged are only under the Tamil Nadu Prohibition Act whereas in the ground case, the offence under IPC is also alleged. The non-consideration of such aspect reflects non-application of mind.

5. We have heard learned Additional Public Prosecutor on the above submissions.

6. As rightly submitted by learned counsel for petitioner, in the case cited as similar, the offences alleged are only under the Tamil Nadu Prohibition Act whereas in the ground case, the offence under IPC is also alleged. Hence, we find that the order of detention suffers from non application of mind.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Chandiran S/o.Manickam, in D.O.No.69/2019-C2 dated 27.08.2019, is quashed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-

Assistant Registrar (CS-III)

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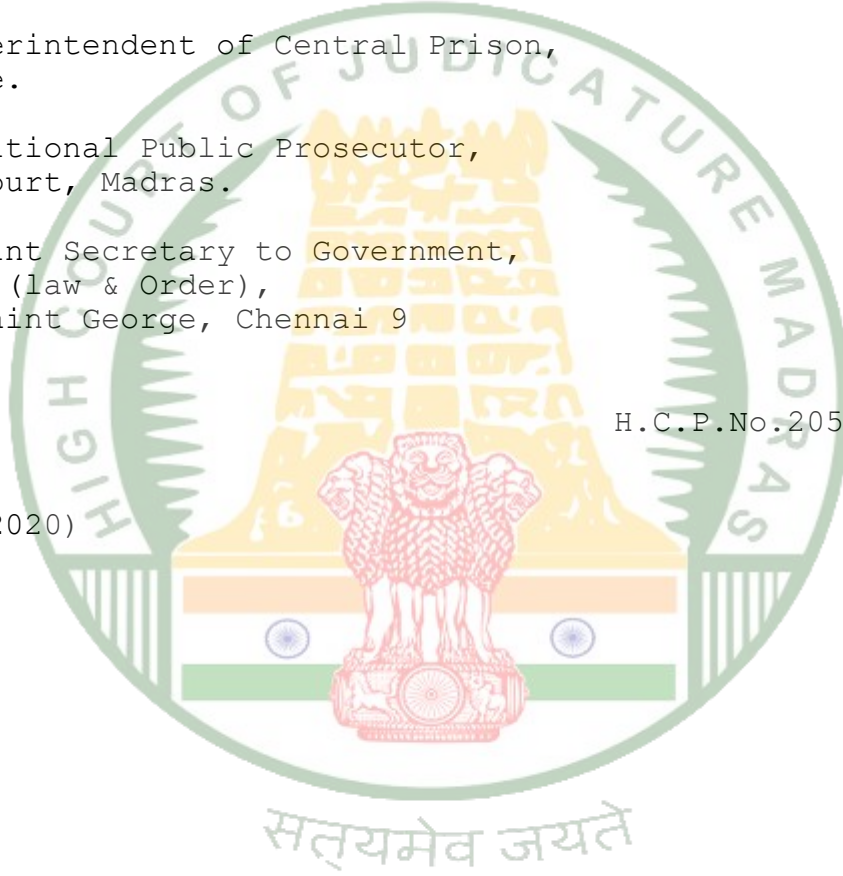
Sub Assistant Registrar

To

- 1.The District Collector and District Magistrate,
Thiruvannamalai District.
- 2.The Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600009.
- 3.The Inspector of Police,
Thanipadi Police Station,
Thiruvannamalai District.
- 4.The Superintendent of Central Prison,
Vellore.
- 5.The Additional Public Prosecutor,
High Court, Madras.
6. The Joint Secretary to Government,
Public (law & Order),
Fort Saint George, Chennai 9

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RK (CO)
GN(19/02/2020)



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