

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2020

CORAM

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

H.C.P.No.2156 of 2019

R.Kathiravan

... Petitioner

Vs

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

2.District Collector & District Magistrate,
Krishnagiri District, Krishnagiri.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 20.09.2019 in S.C. No.18/2019 against the petitioner friend Venkatesan, male, aged 43 years, S/o.Settu, who is confined at Central Prison, Salem and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.D.Balaji
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 friend of the detenu viz. Venkatesan, aged 43 years, S/o.Settu, who has been branded as a 'Bootlegger' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in S.C.No.18/2019 dated 20.09.2019.

2. The alleged ground case has been registered against the detenu in Crime No.813 of 2018 on the file of Krishnagiri Prohibition Enforcement Wing for offences u/s.4(1)(aaa) r/w.4(1-

A) of TNP Act 1937 and 468, 471, 420 IPC and 6, 7 of Tamil Nadu Rectified Spirit Rule, 2000. 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 in the case cited as similar, the offence alleged was under Sections 4(1)(a) r/w.4(1-A) of TNP Act 1937 and 6, 7 of Tamil Nadu Rectified Spirit Rule, 2000, whereas the ground case has been registered against the detenu under Sections 4(1)(aaa) r/w.4(1-A) of TNP Act 1937 and 468, 471, 420 IPC and 6, 7 of Tamil Nadu Rectified Spirit Rule, 2000. 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, the similar case referred to and relied upon by the Detaining Authority to infer that the detenu would be granted bail in the ground case, is not a similar case. 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., Venkatesan, S/o.Settu, in S.C. No.18/2019 dated 20.09.2019, 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)

// True Copy//

Sub Assistant Registrar

vga

To

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

2.District Collector & District Magistrate,
Krishnagiri District, Krishnagiri.

3.The Superintendent of Central Prison,
Salem.

4.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2156 of 2019

GMR (CO)
CSR: 26.02.2020



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