

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.01.2020

CORAM

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

H.C.P.No.2260 of 2019

Valli
W/o.(Late) Kennady ... Petitioner

Vs

1.The State of Tamil Nadu
represented by its
Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 9.

2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 7. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the entire records of the detention made in Memo No.596/BCDFGISSSV/2019 dated 14.09.2019 passed by second respondent and set aside the same and direct the respondents to produce the detainee Velazhagi, aged 57 years, W/o.Manivannan, now confined at Special Prison for Women, Puzhal, Chennai, before this Court and set her at liberty.

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

WEB COPY

O R D E R

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

Petitioner is the sister of the detainee viz., Velazhagi, aged 57 years, W/o.Manivannan, who has been branded as a 'Drug Offender' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in Memo No.596/BCDFGISSSV/2019 dated 14.09.2019.

2. The alleged ground case has been registered against the detainee in Crime No.280 of 2019 on the file of P-4 Basin Bridge Police Station for offences u/s.8(c) r/w 20(b)(ii)(B) of NDPS Act, 1985 r/w 34 IPC. 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 while observing that the bail application filed by the detainee in the ground case is pending, the detaining authority has informed a real possibility of her coming out on bail since in a similar case bail was granted by learned Principal Special Judge, EC & NDPS Court, Chennai, in CrI.M.P.No.662 of 2018 in respect of Crime No.327 of 2018 on the file of P-4 Basin Bridge Police Station for offences u/s.8(c) r/w 20(b)(ii)(B) of NDPS Act, 1985. Learned counsel submits that in the case cited as similar, the offence alleged was only under NDPS Act whereas the ground case has been registered alleging offences both under NDPS Act as well as IPC. 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 similar case, relied on by the detaining authority in arriving at a subjective satisfaction, there is no offence under the Indian Penal Code. 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 detainee viz., Velazhagi, aged 57 years, W/o.Manivannan, in Memo No.596/BCDFGISSSV/2019 dated 14.09.2019, is quashed. The above named detainee is ordered to be set at liberty forthwith, unless her custody is required in connection with any other case.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

gm

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 9.
- 2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 7.
- 3.The Superintendent of Special Prison for Women,
Puzhal, Chennai.
- 4.The Joint Secretary to Government
Public Law & Order Fort St.George
Chennai-9
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2260 of 2019

ln(co)
aa27/02/2020

WEB COPY