

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2020

CORAM

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

H.C.P.No.2212 of 2019

Vedi ... Petitioner/Brother
in law of the detenu

Vs

1.State of Tamil Nadu,
rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-470 009.

2.The District Collector and District Magistrate,
Tiruvannamalai District,
Tiruvannamalai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for the entire records, relating to petitioner's uncle detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 26.09.2019 on the file of the second respondent herein made in proceedings in D.O. No.73/2019-C2 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's uncle namely Bakkiyaraj, son of Arumugam, aged 32 years before this Court and set the petitioner's uncle at liberty from detention, now petitioner's uncle detained at Central Prison, Vellore.

For Petitioner : Mr.C.C.Chellappan

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 brother in law of the detenu viz. Bakkiyaraj, aged 32 years, S/o.Arumugam 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.73/2019-C2 dated 26.09.2019.

2. The alleged ground case has been registered against the detenu in Crime No.444 of 2019 on the file of Thanipadi Police Station for offences u/s. 4(1)(g), 4(1)(b), 4(1)(h), 4(1)(aaa) r/w.4(1-A)(ii) Tamil Nadu Prohibition Act, 1937 r/w.328 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 in the case cited as similar, the offence alleged was under Sections 4(1)(i) r/w. 4(1-A) Tamil Nadu Prohibition Act, 1937 @ 4(1)(i), 4(1)(aaa) r/w. 4(1-A) (ii) TNP Act, whereas the ground case has been registered against the detenu under Sections 4(1)(g), 4(1)(b), 4(1)(h), 4(1)(aaa) r/w.4(1-A)(ii) Tamil Nadu Prohibition Act, 1937 r/w.328 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, 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., Bakkiyaraj, S/o.Arumugam, in D.O. No.73/2019-C2 dated 26.09.2019, 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-VI)

//True Copy//

Sub Assistant Registrar

vga

To

1.The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-470 009.

2.The District Collector and District Magistrate,
Tiruvannamalai District,
Tiruvannamalai.

3.The Superintendent of Police,
Central Prison, Vellore.

4.The Joint Secretary to Govt.,
Public (L&O) Department,
Secretariat, Chennai-9.

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2212 of 2019

NMI (CO)
CB(05/03/2020)



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