

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2020

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THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

H.C.P.No.2274 of 2019

Lilly
W/o.Sundhar

... Petitioner

Vs

1. State of Tamil Nadu
represented by
The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600009.

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

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus directing respondents to produce the petitioner's husband by name Sundhar S/o.Anbalagan, aged about 30 years, before this Court, now confined at Central Prison, Tiruchirappalli, set him at liberty and to call for the records pertaining to the order of detention passed in Cr.M.P.No.29/2019 dated 30.09.2019 passed by second respondent and set aside the same.

For Petitioner : Mr.K.Thenrajan
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., Sundhar S/o.Anbalagan, aged 30 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 Cr.M.P.No.29/2019 dated 30.09.2019.

2. The detenu came to adverse notice in the following cases:

Sl. No.	Police Station and Crime No.	Section of Law
1.	Sethiathoppu Police Station, Crime No.48/2018	4(1) (a), 4(1-A) and 14-A of Tamil Nadu Prohibition Act
2.	Chidambaram P.E.W, Crime No.553/2018	4(1) (a), 4(1-A) and 14A of Tamil Nadu Prohibition Act
3.	Chidambaram P.E.W, Crime No.675/2018	4(i) (a) and 4(1-A) of Tamil Nadu Prohibition Act
4.	Ariyalur P.E.W., Crime No.76/2019	4(I) (aaa), 4(I-A) TNP Act r/w 328, 468, 471, 420 IPC and 4, 6, 7 of TNRS Rules, 2000
5.	Chidambaram P.E.W, Crime No.357/2019	4(1) (aaa), 4(1-A), 14A of Tamil Nadu Prohibition Act r/w 468, 471, 328 and 420 IPC
6.	Chidambaram P.E.W, Crime No.514/2019	4(I) (aaa), 4(I-A), 14A TNP Act r/w 468, 471, 420 IPC and 5, 6, 13 of TNRS Rules - 2000

The alleged ground case has been registered against the detenu in Crime No.663 of 2019 on the file of Ariyalur P.E.W for offences u/s.4(1) (a), 4(1-A) TNP Act 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 the confession of the accused in the similar case, which is annexed in page No.153 of the booklet furnished to the detenu is illegible. Learned counsel informs that the same adversely has affected his right of making an effective representation.

5. When the documents furnished to the detenu are illegible, opportunity of clear understanding and making effective representation in keeping with Article 22(5) of the Constitution of India on such understanding is lost and the detenu is deprived thereof. This would vitiate the order of detention. For the aforesaid reasons, this Court would allow the present petition.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Sundhar S/o.Anbalagan, in Cr.M.P.No.29/2019 dated 30.09.2019, is set aside. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600009.
- 2.The District Collector and District Magistrate,
Ariyalur District,
Ariyalur.
- 3.The Joint Secretary to Government
Public (law and order)
Fort. st. George
Chennai 9.
- 4.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2274 of 2019

PP(CO)
SP(26/02/2020)