

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2020

CORAM

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

H.C.P.No.2334 of 2019

Kausalya
W/o.Yuvaraj

... Petitioner

Vs

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

2.The District Collector & Magistrate,
Vellore District, Vellore.

... 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 viz., Yuvaraj S/o.Subramani, aged about 32 years, before this Court, now confined at Central Prison, Vellore and set him at liberty and to call for the records pertaining to the order of detention passed in C3/D.O.No.101/2019 dated 19.09.2019 by second respondent and set aside the same.

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

W E B C O P Y
O R D E R
[Order of this Court was made by R.SUBBIAH, J]

Petitioner is the wife of the detenu viz., Yuvaraj S/o.Subramani, aged 32 years, who has been branded as a 'Sand Offender' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in C3/D.O.No.101/2019 dated 19.09.2019.

2. The detenu came to adverse notice in Crime No.438/2019 on the file of Walajapet Police Station for offences u/s.379 and 430 IPC. The alleged ground case has been registered against the detenu in Crime No.501 of 2019 on the file of Walajapet Police Station for offences u/s.379, 430, 353, 307 IPC r/w 21(5) of Mines and Minerals (Development and Regulation) Act, 1957. 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 detaining authority has informed a real possibility of his coming out on bail since in a similar case bail was granted by learned Principal Sessions Judge, Vellore, in Crl.M.P.No.2854 of 2017 in respect of Crime No.222 of 2017 on the file of Sipcot Police Station for offences u/s.379, 430, 341, 353 and 307 IPC r/w Section 21(1) Mines and Minerals (Development and Regulation) Act, 1957. Learned counsel submits that in the case cited as similar, the offence u/s.341 IPC was present whereas in the ground case, such offence has not been 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 similar case, relied on by the detaining authority in arriving at a subjective satisfaction, offence u/s.341 IPC was present. 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., Yuvaraj S/o.Subramani, aged 32 years, in C3/D.O.No.101/2019 dated 19.09.2019, 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.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

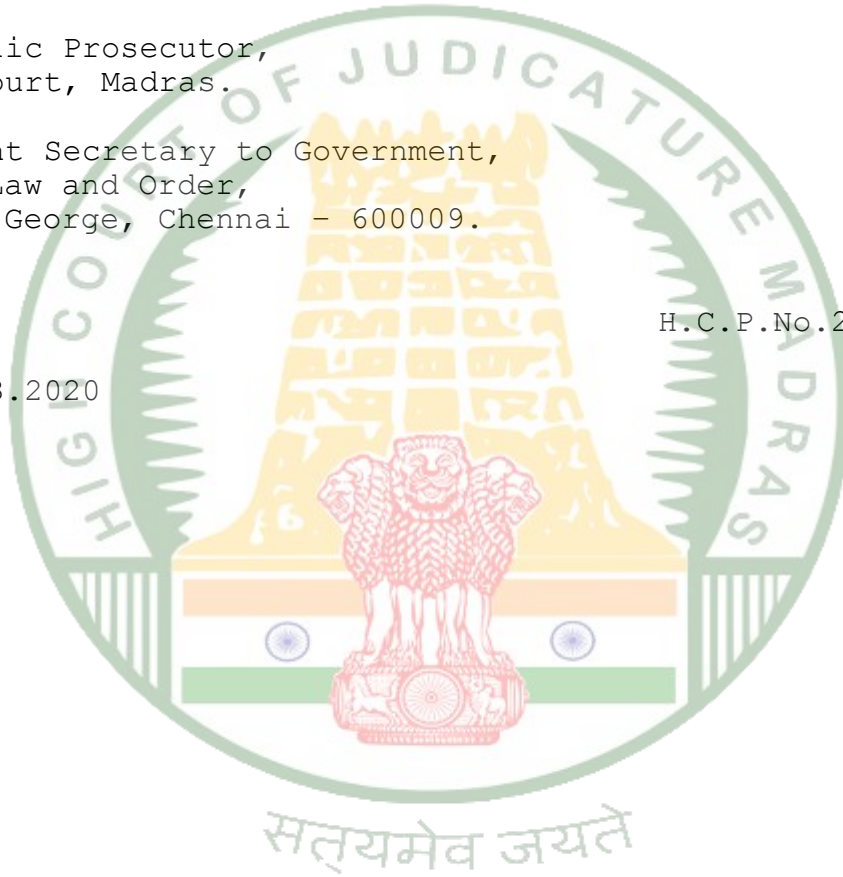
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To

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600009.
- 2.The District Collector & Magistrate,
Vellore District, Vellore.
- 3.The Superintendent of Prison,
Central Prison,
Vellore.
- 4.The Public Prosecutor,
High Court, Madras.
- 5.The Joint Secretary to Government,
Public Law and Order,
Fort St.George, Chennai - 600009.

BP(CO)
CSR: 11.03.2020

H.C.P.No.2334 of 2019



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