

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2020

CORAM

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

H.C.P.No.2584 of 2019

Thulasi
W/o.Jaganathan

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
represented by Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600009.
 - 2.The District Collector and District Magistrate,
Tiruvannamalai District,
Tiruvannamalai.
 - 3.The Superintendent of Police,
Tiruvannamalai District,
Tiruvannamalai.
 - 4.The Inspector of Police,
Chetpet Police Station,
Chetpet, Tiruvannamalai District.
- ... 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 relating to the impugned order of detention passed by second respondent in D.O.No.64/2019-C2 dated 13.08.2019 and set aside the same, consequently, direct the respondents to produce the detenu viz., Jaganathan, aged 42 years, S/o.Arjunan, No.4111, Road Street, Thachur Village, Arani Taluk, Tiruvannamalai District, now confined at Central Prison, Vellore, before this Court and set him at liberty forthwith.

For Petitioner : Mr.B.Jawahar
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. Jaganathan S/o.Arjunan, aged 42, 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 D.O.No.64/2019-C2 dated 13.08.2019.

2. The alleged ground case has been registered against the detenu in Crime No.312 of 2019 on the file of Chetpet Police Station for offences u/s.353, 506(ii), 307, 379, 430 IPC r/w 21(5) of Mines and Minerals (Development & Regulation) Act, 1957 and 3 of Tamil Nadu Property (Prevention of Damage & Loss) Act, 1992. 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 though the bail application filed by the detenu is pending, the detaining authority has informed a real possibility of the detenu coming out on bail since in a similar case bail was granted by learned Judicial Magistrate, Polur, in Cr.M.P.No.2334 of 2018 in respect of Crime No.277 of 2018 on the file of Polur Police Station for offences u/s.379 and 430 IPC. Learned counsel submits that in the case cited as similar, some of the offences alleged in the ground case are missing. 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, some of the offences alleged in the ground case are missing. 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., Jaganathan S/o.Arjunan, aged 42, in D.O.No.64/2019-C2 dated 13.08.2019, 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 (CS-III)

//True Copy//

Sub Assistant Registrar

gm

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600009.
- 2.The District Collector and District Magistrate,
Tiruvannamalai District,
Tiruvannamalai.
- 3.The Superintendent of Police,
Tiruvannamalai District,
Tiruvannamalai.
- 4.The Inspector of Police,
Chetpet Police Station,
Chetpet, Tiruvannamalai District.
- 5.The Superintendent,
Central Prison,
Vellore.
- 6.The Public Prosecutor,
High Court, Madras.
- 7.The Joint Secretary to Government,
Public (Law and Order),
Fort St.George, Chennai - 9.

H.C.P.No.2584 of 2019

GP(CO)
klt(21/05/2020)

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