

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.05.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

H.C.P.No. 2688 of 2019

P. Ramayee, F/40 years,
W/o. Palani,
Velanur Village,
Harur Taluk,
Dharmapuri District,
Pin: 636 906.

...Petitioner

Vs.

1. The State represented by,
The District Magistrate cum
District Collector,
Dharmapuri District,
Dharmapuri.

2. The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition & Excise IX,
Secretariat, St. George Fort,
Chennai - 600 009.

..Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India for issuance of Writ of Habeas Corpus, calling for the records of the first respondent relating to the order of (Detention Order No. S.C. No. 18/2019) dated 04.11.2019, setting aside the order of detention passed therein and directing the respondent to produce the detenu namely Palani Son of Chinnaiyan, before this Court, now detained in Central Prison at Salem and setting him at liberty.

For Petitioner :: Mr.J. Pradeep

For Respondents:: Mr.R. Prathap Kumar,
Additional Public Prosecutor.

O R D E R
(Order of the Court was made by N. KIRUBAKARAN,J.)

The matter is heard through video-conferencing.

2. The petitioner's husband viz., Palani Son of Chinnaiyan has been detained under the Tamil Nadu Act 14/1982 by virtue of Detention Order No. S.C. No. 18/2019 dated 04.11.2019 passed by the 1st respondent. The said order is being challenged before this Court.

3. Heard Mr.J. Pradeep, learned counsel appearing on behalf of the petitioner and Mr.R. Prathap Kumar, learned Additional Public Prosecutor.

4. According to the learned counsel appearing on behalf of the petitioner, the petitioner's husband has been detained under Tamil Nadu Act 14, 1982 on 04.11.2019 as per the detention order S.C. No. 18/2019. He would further submit that there is a delay in passing the detention order. When the detenu was arrested on 04.10.2019, the order of detention has been passed on 04.11.2019 and therefore, he would seek setting aside the impugned order of detention.

5. The learned Additional Public Prosecutor would defend the detention order stating that the detaining authority had considered all the aspects and passed the detention order and already two adverse cases are against the petitioner's husband and one ground case in Cr.No. 1104 of 2019 under Section 4(1) (aaa) r/w 4(1-A) of Tamil Nadu Prohibition Act, 1937 is also pending against the petitioner's husband.

6. It is evident from the detention order that two adverse cases have been filed against the detenu. He has already been convicted in one adverse case in Cr.No. 863/2018 under Section 4(1)(a) r/w 4(1-A) TNP Act @ 4(1)(a) TNP Act, 1937 on 03.05.2019 and paid a sum of Rs.500/- as fine and only one adverse case is pending in Cr.No. 977/2019 under Section 4(1)(a) r/w. 4(1-A) TNP Act, 1937 @ 4(1)(a) of Tamil Nadu Prohibition Act, 1937. Considering the fact that there is a delay in passing the detention order, the detention order is vitiated.

7. The detention order passed by the first respondent in S.C. No. 18/2019 dated 04.11.2019 is hereby set aside. The detenu, viz., Palani, S/o. Chinnaiyan, aged about 50 years, who is now confined at Central Prison at Salem is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

8. Accordingly, the Habeas Corpus Petition is disposed of.

Sd/-
Assistant Registrar (CS-I)

//True copy//

Sub Assistant Registrar

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To

1. The State represented by,
The District Magistrate cum
District Collector,
Dharmapuri District,
Dharmapuri.
2. The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition & Excise IX,
Secretariat, St. George Fort,
Chennai - 600 009.
3. The Public Prosecutor,
High Court,
Chennai 104.
4. The Superintendent Central Prison, Salem.
5. The Joint Secretary to Government Public
(Law & order) Fort St. George, Chennai-9

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MP (CO)
EU 25.6.2020