



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.221 of 2020

Vanathi

... Petitioner

-vs-

- 1.The Secretary to Government,
Government of Tamil Nadu,
Co-operation and Food and Consumer Protection,
2nd Floor, Namakkal Kavingnar Maligai,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Theni District, Theni.
- 3.The Additional Secretary to Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
(Department of Consumer Affairs)
Room No.270, Krishna bavan, New Delhi - 110 001.
- 4.The Superintendent of Prison,
Madurari Central Prison,
Madurai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus to call for the entire records connected with the detention order of the respondent No.2 in Detention Order dated 28.02.2020 and quash the same and direct the respondents to produce the body and person of the detenu by name Manikandan, son of Ayyavuthevar, aged about 52 years, now confining at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.V.Neelakandan
Additional Public Prosecutor



O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

The wife of the detenu, namely, Manikandan aged about 52 years son of Ayyavuthevar, has come up with the present Habeas Corpus Petition to assail the detention order passed by the second respondent in Detention Order No.01/2020 (CS) dated 28.02.2018.

2.Mr.R.Alagumani, learned counsel for the petitioner would urge that the detention order impugned in this habeas corpus petition is liable to be quashed on two grounds, namely, subjective satisfaction arrived at by the detaining authority is without cogent materials and the similar case particulars have not been furnished to the detenu. In support of his contention, the learned counsel relied on the decision of the Honourable Supreme Court reported in **(2006)2 SCC 664 (T.V.Saravanan @ S.A.R. Prasana Venkatachaariar Chaturvedi vs. State through Secretary and another)** and the decision of this Court reported in **(2017)3 MLJ (Cr1) 168 (P.Rajeswari vs. Commissioner of Police)**.

3.Per contra, Mr.V.Neelakandan, learned Additional Public Prosecutor, while reiterating the counter affidavit filed by the second respondent, submitted that the Detaining Authority has arrived at the subjective satisfaction based on the cogent materials placed by the Sponsoring Authority and there is no infirmity or irregularity in the impugned order of detention passed by the second respondent and hence, prayed for dismissal of the habeas corpus petition.

4.We have heard the rival submissions and perused the materials available on records.

5.In the matter on hand, a perusal of the detention order would show that the detenu was remanded to the judicial custody for the ground case on 21.02.2020 and his remand is extended upto 06.03.2020 and his anticipatory bail application in Cr1.O.P(MD) No.17852 of 2019 came to be dismissed on 03.12.2019. The detaining authority to arrive at subjective satisfaction has stated that a secret information has been received that he or his relatives may file bail petition before the competent Court and there is a likelihood of grant of bail by the competent Courts or High Court. A perusal of the records would show that admittedly no bail petition has been filed by the detenu for the ground case. But the detaining authority without any materials came to the conclusion that there is a likelihood of the relative of the detenu to file a petition for bail before the competent Court very



soon.

6.The Hon'ble Apex Court in **(2006)2 SCC 664 (cited supra)** has held at paragraph 14 as follows:-

"14.We are satisfied that for the same reason the order of detention cannot be upheld in this case. The bail applications moved by the appellant had been rejected by the courts and there was no material whatsoever to apprehend that he was likely to move a bail application or that there was imminent possibility of the prayer for bail being granted. The "imminent possibility" of the appellant coming out on bail is merely the ipse dixit of the detaining authority unsupported by any material whatsoever. There was no cogent material before the detaining authority on the basis of which the detaining authority could be satisfied that the detenu was likely to be released on bail. The inference has to be drawn from the available material on record. In the absence of such material on record the mere ipse dixit of the detaining authority is not sufficient to sustain the order of detention. There was, therefore, no sufficient compliance with the requirements as laid down by this Court. These are the reasons for which while allowing the appeal we directed the release of the appellant by order dated 13.12.2005."

7.The same view was taken by this Court in the decision reported in **(2017)3 MLJ (Cr1) 168 (cited supra)**. In the instant case, admittedly, no bail petition was filed and subjective satisfaction arrived at by the detaining authority is without any materials. Therefore, the decision referred above would squarely apply to this case.

8. In that view, the order of detention passed by the second respondent, in Detention Order No.01/2020, is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, Manikandan, son of Ayyavuthevar, aged about 52 years, now detained at Madurai Central Prison is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

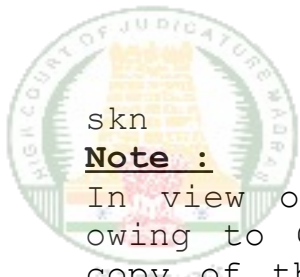
Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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Note :

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To

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Government of Tamil Nadu,
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Madurai District.
- 5.The Joint Secretary to Government,
Public (Law & Order), Fort Saint George, Chennai
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S. JEYASINGH, Advocate SR-13378[F] dated 30/07/2020

H.C.P. (MD) No.221 of 2020

29.07.2020

SR(CO)

TR(13.08.2020) 4P 8C