



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.965 of 2020

Nathiya

... Petitioner

-vs-

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Madurai District.
- 3.The Superintendent of Prison,
Special Prison for Women,
Madurai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus calling for the entire records connected with the detention order of the respondent No.2 in B.C.D.F.G.I.S.S.V.No.24/2020 dated 09.10.2020 and quash the same and direct the respondents to produce the body or person of the detenu by name Nathiya, wife of Balakrishnan, aged about 35 years, now detained as "Drug Offender" at Madurai Special Prison for Women before this Court and set her at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.K.Dinesh Babu
Additional Public Prosecutor

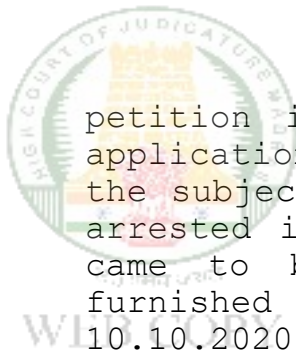
O R D E R

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

This habeas corpus petition has been filed by the detenu, namely, Nathiya, wife of Balakrishnan, aged about 35 years, against the detention order in B.C.D.F.G.I.S.S.V.No.24/2020, dated 09.10.2020, passed by the second respondent, branding her as "Drug Offender" as contemplated under Section 2(e) of Tamil Nadu Act, 14 of 1982.

2.Mr.R.Alagumani, learned counsel for the petitioner would argue that the detention order impugned in this habeas corpus

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petition is liable to be set aside on the sole ground of non-application of mind on the part of the detaining authority to reach the subjective satisfaction. He further added that the detinue was arrested in the ground case on 19.09.2020 and the detention order came to be passed on 09.10.2020. The authorities have also furnished booklet and other relevant documents to the detinue on 10.10.2020, however, in page No.64 of the booklet, a copy of the order passed by the Additional District Judge (Special Court for E.C and NDPS Act), Madurai, dated 12.10.2020, has been enclosed, which shows clear non-application of mind on the part of the detaining authority. It is also submitted that the petitioner is a lady and she is having minor children.

3. Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor, submitted that the detention order has been passed by the second respondent after arriving at the subjective satisfaction based on the cogent and relevant materials placed by the Sponsoring Authority and to prevent the detinue from indulging in similar activities in future and hence, prayed for dismissal of the habeas corpus petition.

4. We have heard the rival submissions and perused the materials placed on record.

5. In the matter on hand, it is not in dispute that the detention order was passed on 09.10.2020 and the booklet was furnished to the detinue on 10.10.2020, but perusal of the booklet at page No.64 shows that the order passed by the Principal Special Court for E.C & NDPS Act Cases, Madurai in Spl.Cr.M.P.No.656/2020 dated 12.10.2020 has been found. Therefore, we find force in the submission of the learned counsel for the petitioner and hence, the detention order impugned in this habeas corpus petition is liable to be set aside on the ground of lack of application of mind on the part of the detaining authority.

6. In fine, the Habeas Corpus Petition is allowed. The order of detention in B.C.D.F.G.I.S.S.V.No.24/2020 dated 09.10.2020, passed by the second respondent, is set aside. Consequently, the detinue, namely, Nathiya, wife of Balakrishnan, aged about 35 years, who is now detained at Madurai Special Prison for Women is directed to be released forthwith unless her presence or custody or detention is required in connection with any other case.

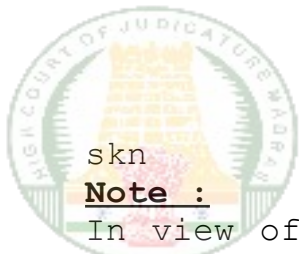
Sd/-

Assistant Registrar(CRL SIDE)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



skn

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To:

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Madurai District.
- 3.The Superintendent of Prison,
Special Prison for Women,
Madurai District.
4. The Joint Secretary to Government,
Public (Law & Order), Fort Saint George, Chennai
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.965 of 2020

16.12.2020

(CO)

TR(23.12.2020) 3P 6C