



WEB COPY

H.C.P(MD)No.719 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2020

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

H.C.P (MD)No.719 of 2019

S.Ramalakshmi

... Petitioner

Vs.

1.State of Tamil Nadu,
Represented by
The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

2.The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus to call for the entire records connected with the detention order passed in M.H.S.Confdl.No.50/2019, dated 10.07.2019 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu, namely the petitioner's son i.e., Vignesh aged about 22 years, S/o.Sridhar, now detained at Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.K.Dinesh Babu

Additional Public Prosecutor

ORDER

[Order of the Court was made by P.N.PRAKASH,J.]

The petitioner's son Vignesh was detained as a 'Drug Offender' under Section 2(e) of the Tamil Nadu Act 14 of 1982, vide the impugned order of detention dated 10.07.2019, aggrieved by which, the petitioner is before this Court for quashing the same.



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2. It is seen that the ground case was registered in Tirunelveli Taluk Police Station Crime No.214 of 2019 under Section 8(c) read with Section 20(b)(ii)(B) of Narcotic Drugs and Psychotropic Substances Act, for the possession of 2 Kilograms of Ganja. There is one adverse case against the detenu for possession of 1.200 Kilograms of Ganja.

3. The learned counsel for the petitioner submitted that in Paragraph No.6 of the grounds of detention, the Detaining Authority has placed reliance upon the order dated 11.01.2019 in CrI.M.P.No.141 of 2019, that was passed by the learned Additional District Judge, Principal Special Court for EC and NDPS Act Cases, Madurai, granting bail, wherein also, the detenu herein was one of the accused, to come to the subjective satisfaction that the detenu would be enlarged on bail in the ground case as well. But, according to the learned counsel, in the order dated 11.01.2019 in CrI.M.P.No.141 of 2019, referred to above, upon which, the Detaining Authority has placed reliance, bail was granted on the ground that the detenu has no previous case to his credit, but, in the ground case, the case in which the detenu has been granted bail, becomes a previous case and hence, it cannot be stated that there is imminent possibility of the detenu coming out on bail in the ground case.

4. As rightly contended by the learned counsel for the petitioner, the petitioner does have one previous case to his credit, viz., Thoothukudi Narcotic Intelligence Bureau Crime No.59 of 2018 (adverse case) and viewed from that angle, the Detaining Authority is wrong in arriving at subjective satisfaction that the detenu will be enlarged on bail in the ground case, relying upon the bail granted in the adverse case, viz., Thoothukudi Narcotic Intelligence Bureau Crime No.59 of 2018. This subjective satisfaction arrived at by the Detaining Authority, in the opinion of this Court, suffers the vice of non-application of mind and accordingly, the Detention Order is liable to be quashed.

5. In the result, this Habeas Corpus Petition is allowed by setting aside the order of detention passed by the second respondent, in M.H.S.Confdl.No.50/2019, dated 10.07.2019. Consequently, the detenu, namely Vignesh, Son of Sridhar, aged about 22 years, who is now detained at Central Prison, Palayamkottai, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case/proceedings.

Sd/-

Assistant Registrar (A.D.II)

/True Copy/

Sub Assistant Registrar



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To

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- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
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- 2.The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.
4. The Joint Secretary to Government,
Public (Law and Order),
Fort St.George, Chennai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

AKM/07.05.2020 /3P-6C/

Order made in
H.C.P (MD)No.719 of 2019
Dated: 16.03.2020