



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2020

CORAM:

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

H.C.P. (MD) No.1241 of 2019

R.Jeyalakshmi

... Petitioner

-vs-

1.State of Tamil Nadu
rep.by The Principal Secretary to Government
Home, Prohibition and Excise Department
Fort St.George, Chennai-9

2.The District Collector and
District Magistrate
O/o.The District Collector and
District Magistrate
Nagapattinam District, Nagapattinam

3.The Superintendent
Central Prison
Tiruchirappalli

... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus calling for the entire records in detention order passed in C.O.C.No.59/2019, dated 12.11.2019, on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's husband namely Ramu @ Ramanan, son of Thennu @ Thennarasan, male, aged 36 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.K.A.S.Prabhu

For Respondents : Mr.R.Anandharaj
Additional Public Prosecutor



O R D E R

(Order of the Court was made by K.KALYANASUNDARAM, J.)

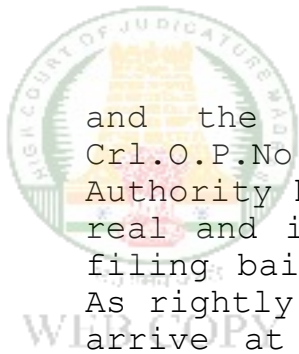
The prayer in this habeas corpus petition is to quash the order of detention passed by the second respondent, in C.O.C.No.59 of 2019, dated 12.11.2019, brading the husband of the petitioner, namely, Ramu @ Ramanan, son of Thennu @ Thennarasan, aged 36 years, as "Boot-Legger" as contemplated under Section 2(b) of Tamil Nadu Act 14 of 1982 and to set him at liberty.

2. Mr.K.A.S.Prabhu, learned counsel for the petitioner, would argue that though the impugned order of detention has been assailed on many grounds, he has confined his argument only to the ground of non-application of mind. It is the submission of the learned counsel for the petitioner that in Paragraph No.5 of the impugned order of detention, it has been stated that the bail petition filed by the detenu in the ground case in Cr.M.P.No.7513 of 2019 was dismissed by the learned Judicial Magistrate No.I, Nagapattinam on 10.10.2019 and the learned Sessions Judge, Nagapattinam, also dismissed the bail petition filed by the detenu in Cr.M.P.No.3026 of 2019, on 17.10.2019 and the bail petition filed by the detenu in CrI.O.P.No.29494 of 2019 was pending before the High Court of Madras. But, the Detaining Authority, without any iota of material, has come to the subjective satisfaction that there is a real and imminent possibility of the detenu coming out on bail by filing bail application for the aforesaid case before the High Court. According to the learned counsel for the petitioner, this subjective satisfaction arrived at by the Detaining Authority is without any material and it shows non-application of mind and on this ground, the impugned order of detention is liable to be quashed.

3. Per contra, Mr.R.Anandharaj, learned Additional Public Prosecutor, on instructions, would submit that the detention order has been passed on cogent materials and after considering the antecedents of the detenu involving in similar nature of offences. It is further submitted that there is no illegality or infirmity in the order of detention and it does not warrant any interference of this Court.

4. Heard the rival submissions and perused the materials available on record.

5. A perusal of the detention order would show that in Paragraph No.5, the Detaining Authority has mentioned that in respect of the ground case, bail petitions filed by the detenu before the learned Judicial Magistrate No.I, Nagapattinam and the learned Sessions Judge, Nagapattinam in Cr.M.P.Nos.7513 of 2019 and Cr.M.P.No.3026 of 2019 were dismissed on 10.10.2019 and 17.10.2019



and the bail petition filed by him before this Court in Crl.O.P.No.29494 of 2019 was pending. However, the Detaining Authority has arrived at the subjective satisfaction that there is a real and imminent possibility of the detenu coming out on bail by filing bail petition in the aforesaid case before the High Court. As rightly pointed out by the learned counsel for the petitioner, to arrive at the subjective satisfaction that there is a real and imminent possibility of the detenu coming out on bail, there is absolutely no material available with the Detaining Authority. Thus, in our consider opinion, the observation made in Paragraph No.5 of the detention order is only *ipse dixit* statement of the Detaining Authority and there is no material to arrive at the subjective satisfaction. Hence, the impugned order of detention is liable to be quashed.

6. In fine, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in C.O.C.No.59/2019, dated 12.11.2019 is set aside. Consequently, the detenu, namely, Ramu @ Ramanan, son of Thennu @ Thennarasan, male, aged 36 years, who is detained in Central Prison, Tiruchirappalli, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

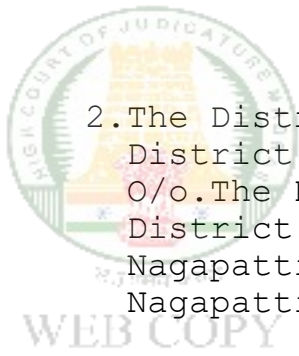
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Note :

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 Principal Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Fort St.George, Chennai-9.



- 2.The District Collector and District Magistrate,
O/o.The District Collector and District Magistrate,
Nagapattinam District,
Nagapattinam.
- 3.The Superintendent,
Central Prison,
Tiruchirappalli.
- 4.The Joint Secretary
to Government, Public (law & orders)
Fort.st. George, Chennai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.1241 of 2019

15.07.2020

SPU (28.07.2020) 4P 6C