

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2021

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P.No.45 of 2021

M.Shankar,
S/o.Manickam

... Petitioner /
Brother of the detainee

versus

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The District Collector
and District Magistrate,
Tiruvannamalai,
Tiruvannamalai District.
3. The Superintendent of Police,
O/o.Superintendent of Police,
Tiruvannamalai,
Tiruvannamalai District.
4. The Superintendent of Central Prison,
Special Prison for Women - Vellore,
Vellore District.
5. State rep. by its
The Inspector of Police,
PEW - Tiruvannamalai Police Station,
Tiruvannamalai District.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the entire records, relating to the petitioner's sister detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 30.12.2020 on the file of the second respondent herein made in proceedings D.O.No.138/2020-C2, quash the same as illegal and

consequently direct the respondents herein to produce the petitioner's sister namely Saraswathi, W/o.Shankar, aged 40 years before this Court and set the petitioner's sister at liberty from detention, now the petitioner's sister detained at Special Prison for Women, Vellore.

For Petitioner : Mr.R.Sasikumar

For Respondents : Mr.R.Muniyapparaj
Government Advocate (Crl. Side)

O R D E R

[Order of the Court was made by R.PONGIAPPAN, J.]

The petitioner is the brother of Saraswathi, son of Shankar, aged about 40 years, who is the detenue. The detenue has been detained by the second respondent by his order in D.O.No.138/2020-C2 dated 30.12.2020, holding him to be a "Bootlegger", as contemplated under Section 2(b) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and we have also perused the records carefully. The learned Government Advocate (Crl. Side) has filed a counter and strongly opposed this Petition.

3. Though the learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the remand order pertaining to the ground case has not been translated in vernacular language. This deprived the detenue from making effective representation. Therefore, on this sole ground, the detention order is liable to be quashed.

4. On consideration of the submissions made on either side and upon perusal of the documents available on record especially Page Nos.44 and 45 of the booklet, it is clear that the remand order pertaining to the ground case has not been translated in vernacular language. Thus, the impugned detention order is liable to be set aside on this ground.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in D.O.No.138/2020-C2 dated 30.12.2020, passed by the second respondent is set aside. The detenue, namely, Saraswathi, son of Shankar, aged about 40

years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

sri

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The District Collector
and District Magistrate,
Tiruvannamalai,
Tiruvannamalai District.
3. The Superintendent of Police,
O/o.Superintendent of Police,
Tiruvannamalai,
Tiruvannamalai District.
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Special Prison for Women - Vellore,
Vellore District.
5. State rep. by its
The Inspector of Police,
PEW - Tiruvannamalai Police Station,
Tiruvannamalai District.
6. The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 600 009.
7. The Public Prosecutor,
High Court, Madras.

H.C.P.No.45 of 2021

AR(CO)
CT(13/07/2021)