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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2021

Coram

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MS. JUSTICE R.N.MANJULA

H.C.P.No.535 of 2021

Dhanalakshmi
W/o.Mahalingam

..Petitioner

Vs.

1. State of Tamil Nadu,
represented by its
Secretary to Government (Home),
Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The District Collector & District Magistrate,
Mayiladuthurai District,
Mayiladuthurai.
3. The Superintendent of Police,
Central Prison,
Thiruchirapalli District.
4. The Superintendent of Police,
Mayiladuthurai District,
Mayiladuthurai.
5. The Inspector of Police,
Prohibition Enforcement Wing,
Mayiladuthurai.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records in connection with the order of detention passed by the second respondent dated 15.02.2021 in C.O.C.No.01/2021 against the petitioner's son Elayaraja S/o.Mahalingam, aged about 33 years, who is confined at Central Prison, Tiruchirapalli and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.



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For Petitioner : Mr.K.Rahul
For Respondents: Mr.R.Muniyapparaj
Government Advocate [crl.side]

ORDER

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

The petitioner is the mother of the detenu viz., Elayaraja S/o.Mahalingam, aged about 33 years. The detenu has been detained by the second respondent by his order in C.O.C.No.01/2021 dated 15.02.2021, 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 the learned Government Advocate [Crl.side] appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though 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 arrest of the detenu has not been intimated to his relatives. This deprived the detenu from making effective representation. Therefore, on these grounds, 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 No.52 of the booklet, it is clear that the arrest of the detenu has not been intimated to his relatives. Thus, the impugned detention order is liable to be set aside on this ground.

In the result, the Habeas Corpus Petition is allowed and the order of detention in C.O.C.No.01/2021 dated 15.02.2021 passed by the second respondent is set aside. The detenu, viz., Elayaraja S/o.Mahalingam, aged about 33 years, is directed to be released forthwith unless his detention is required in connection with any other case.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar



To

1. The Secretary to Government (Home),
Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The District Collector & District Magistrate,
Mayiladuthurai District,
Mayiladuthurai.
3. The Superintendent of Police,
Central Prison,
Thiruchirapalli District.
4. The Superintendent of Police,
Mayiladuthurai District,
Mayiladuthurai.
5. The Inspector of Police,
Prohibition Enforcement Wing,
Mayiladuthurai.
6. The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.
7. The Public Prosecutor,
High Court, Madras.

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JPII(CO)
SP(19/08/2021)