

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2021

Coram

The Honourable Mr. Justice P.N.PRAKASH
and
The Honourable Mr. Justice V.SIVAGNANAM

H.C.P.No.2395 of 2020

P.Vaitheswari

.. Petitioner

Vs.

- 1.State of Tamil Nadu,
Represented by its Secretary to Government,
Co-operation, Food and
Consumer Protection Department,
Fort St. George, Chennai-19
- 2.The Commissioner of Police,
Salem City, Salem.
- 3.The Superintendent of Central Prison,
Office of the Superintendent of Prison,
Central Prison, Hasthampatti, Salem District.
4. The Inspector of Police,
Civil Supplies CID,
Junction Main Road, Subramnaia Nagar,
Salem District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Habeas Corpus calling for the records to produce the body of the detenu namely, Thiru. Prakash, son of Murugesan, aged about 28 years before this Court, now confined at Central Prison, Salem and set him at liberty forthwith, pertaining to the detention order in C.M.P.No.2/Black Marketer/Salem City/2020 dated 20.10.2020 passed by the second respondent, quash the same as illegal, incompetent and ultra vires.

For Petitioner : Mr.A.M.Esakkiappan

For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by V.SIVAGNANAM.]

The petitioner is the wife of the detenu, Prakash, male, aged about 28 years, son of Murugesan. The detenu has been detained by the second respondent by its order dated 20.10.2020 in C.M.P.No.2/Black Marketer/Salem City/2020, holding him to be a "Black Marketer", as contemplated under the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act 7 of 1980). 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 Additional Public Prosecutor appearing for the respondents and we have also perused the records carefully.

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 extension of interim orders in suo motu W.P.(MD).No.6126 of 2020 has not been translated in vernacular language. He further submitted that the detaining authority, while detaining the detenu, has not furnished the legible copies of the documents relied on by him. 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 Nos.146 and 147 of the booklet, it is clear that the extension of interim orders in suo motu W.P.(MD).No.6126 of 2020 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 C.M.P.No.2/Black Marketer/Salem City/2020 dated 20.10.2020, passed by the second respondent is set aside. The detenu, viz., Prakash, male, aged about 28 years, son of Murugesan, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

nsd/vsn

To

- 1.The Secretary to Government,
Co-operation, Food and
Consumer Protection Department,
Fort St. George, Chennai-19
- 2.The Commissioner of Police,
Salem City, Salem.
- 3.The Superintendent of Central Prison,
Office of the Superintendent of Prison,
Central Prison, Hasthampatti, Salem District.
4. The Inspector of Police,
Civil Supplies CID,
Junction Main Road, Subramnaia Nagar,
Salem District.
- 5.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.
- 6.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2395 of 2020

SR II(CO)
CB(24/03/2021)