



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.06.2021

CORAM:

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

H.C.P.(MD) No.180 of 2021

Ananthi

... Petitioner

-vs-

1.The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George
Chennai - 600 009.

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

3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus calling for the records pertaining to the impugned detention order passed by the 2nd respondent made in his proceedings in P.D.No.02/2021 dated 08.01.2021 in detaining the detenu under Section 2(b) of the Tamil Nadu Act 14 of 1982 as a Bootlegger and quash the same and direct the respondents to produce the detenu namely Anbu, S/o.Natarajan, male aged about 32 years who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner :Mr.K.M.Karunaakaran

For Respondents :Mr.S.Ravi

Standing counsel for Government



O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

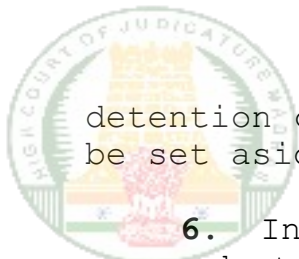
The Habeas Corpus Petition has been filed by the wife of the detenu, namely, Anbu, son of Natarajan, male, aged 32 years, who has been branded as "Bootlegger" by the second respondent in P.D.No.02/2021 dated 08.01.2021, as contemplated under Section 2(b) of the Tamil Nadu Act 14 of 1982.

2.Mr.K.M.Karunakaran, learned counsel appearing for the petitioner, would submit that though several grounds have been raised to assail the impugned order of detention, it is liable to be quashed on the sole ground of non furnishing of the remand order in the third adverse case, despite representation in this regard on part of the detenu on 30.01.2021. The learned counsel has relied upon a decision of the Full Bench of this Court in the case of **G.Kalaiselvi vs. The State of Tamil Nadu** reported in (2007)5 CTC 657 in support of his argument.

3.Per contra, Mr.S.Ravi, learned Standing counsel for the Government, on instructions, would argue that the detenu in this case is involved in similar offence and considering his antecedents, the second respondent has rightly passed the detention order branding him as 'Bootlegger'. It is his further submission that there is no illegality or infirmity in the impugned order warranting interference of this Court.

4.We have heard the rival submissions and perused the materials available on records.

5.In the matter on hand, the detenu was arrested for his alleged involvement in Crime No.1778/2020 on the file of the Kumbakonam West Police Station. On PT warrant, he was arrested in the third adverse case in Crime No.1292/2020 on the file of the Thiruppananthal Police Station. Page No.19 of the booklet shows that the detenu was produced before the concerned Magistrate for remand in the third adverse case on 31.12.2020 and he was also remanded. The learned Magistrate has also passed a remand order on the requisition of the sponsoring authority. But it is not legible. In the representation dated 30.01.2021, though the remand order in the third adverse case has been sought for, so far, it has not been furnished and there is no explanation by the respondents for non furnishing of the remand order in the third adverse case. A Full Bench of this Court in the case of **G.Kalaiselvi vs. The State of Tamil Nadu** reported in (2007)5 CTC 657, has held that non furnishing of the documents sought for by the detenu or offering no explanation for non supplying of documents would vitiate the detention order. Following the above said decision, we are of the opinion that the



detention order impugned in this habeas corpus petition is liable to be set aside.

6. In fine, the order of detention passed by the second respondent, in P.D.No.02/2021 dated 08.01.2021 is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, Anbu, S/o.Natarajan, male aged about 32 years, now detained at Trichy Central Prison 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 //

/ /2021

Sub Assistant Registrar(CS)

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.

RR

To

1.The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George
Chennai - 600 009.

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

3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.180 of 2021

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