



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.07.2021

CORAM:

**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and**

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI
H.C.P. (MD) No.500 of 2021**

Reeja

... Petitioner/Wife of the detenu

-vs-

- 1.State of Tamil Nadu
represented by Secretary to Government,
Prohibition and Excise Department,
Fort St. George,
Chennai.
- 2.The District Magistrate and District Collector,
Kanyakumari District,
Nagercoil.
- 3.The Superintendent,
Central Prison,
Palayamkottai,
Tirunelveli District. ... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus, directing the respondents to produce the detenu Stalin @ Rejin, son of Sivilson @ Sebilson, aged about 35 years before this Court, who is confined in Central Prison, Palayamkottai and set him at liberty and call for the records pertaining to the order of detention passed in P.D.No.11 of 2021, dated 07.03.2021, by the second respondent and set aside the same.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.S.Ravi,

Standing counsel for the State

O R D E R

[Order of the Court was made by B.PUGALENDHI, J.]

This habeas corpus petition has been filed by the wife of the detenu, namely, Stalin @ Rejin, son of Sivilson @ Sebilson, aged about 35 years, against the detention order passed by the second respondent in P.D.No.11 of 2021, dated 07.03.2021, branding him as "Bootlegger" as contemplated under Section 2(b) of Tamil Nadu Act,



2. The petitioner is the wife of the detenu and her husband Stalin @ Rejin, S/o. Sivilson @ Sebilson was detained by the second respondent/the District Collector, Kanyakumari District, by branding him as a Bootlegger, by order dated 07.03.2021. The Detaining Authority found that the detenu involved in Crime No.179 of 2021, on the file of Thakalay Prohibition Enforcement Wing, for the offences under Sections 4 (1-A) 4(1)(g) r/w. 14 A of Tamil Nadu Prohibition Act, 1937 and found that he is having a previous case, which was registered by Thakalay Prohibition Enforcement Wing in Crime No.360 of 2020, for the offence under Section 4(1)(a) of TNP Act and also found that he is indulging in similar activities and hence, he was detained under Act 14 of 1982.

3. Mr.S.C.Herold Singh, learned counsel appearing for the petitioner would submit that the petitioner's husband was detained on 07.03.2021 and the petitioner sent a representation to the Detaining Authority viz., the second respondent on 16.03.2021, which was received by the Detaining Authority on 17.03.2021. The detention order was confirmed by the Government only on 18.03.2021. It is represented that after the H.C.P., the representation has been now traced and it has been sent for the consideration of the Government only on 04.03.2021.

4. Mr.S.Ravi, learned Standing counsel appearing for the respondents would submit that though the representation of the petitioner was received on 17.03.2021, it was sent to the Government for consideration only on 04.03.2021.

5. Whenever any representation is made to the Detaining Authority, within a period of twelve days from the date of detention or prior to the confirmation by the Government, the Detaining Authority is liable to take a decision on the representation. In this case, the detention order was confirmed only on 18.03.2021 and well within 12 days the petitioner has sent a representation as against the detention order to the Detaining Authority, which was also received by him on 17.03.2021. Though the representation was received by him well before the confirmation of the Government, the Detaining Authority failed to consider the representation. The statement of the learned Standing counsel shows that the representation of the petitioner was not considered by the Detaining Authority in time. For the non-consideration of the representation by the Detaining Authority, the detention order vitiates and it is liable to be quashed.

6. In fine, the Habeas Corpus Petition is allowed. The detention order made in P.D.No.11 of 2021, dated 07.03.2021, passed by the second respondent, is set aside. Consequently, the detenu, namely, Stalin @ Rejin, son of Sivilson @ Sebilson, aged about 35 years, who is now detained at Central Prison, Palayamkottai is



directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

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 Secretary to Government,
State of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George,
Chennai.
- 2.The District Magistrate and District Collector,
Kanyakumari District,
Nagercoil.
- 3.The Superintendent,
Central Prison,
Palayamkottai,
Tirunelveli District.
4. The Joint Secretary to Government,
Public Law and Order,
Fort St. George,
Chennai-9.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-21312[F] dated 06/07/2021)

H.C.P. (MD) No.500 of 2021

06.07.2021

SSS (CO)

LR (16.07.2021) 3P 7C

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