



WEB COPY

H.C.P.(MD) No.634 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P. (MD) No.634 of 2021

Pathambal

... Petitioner/ Wife of the Detenu

vs.

1.State of Tamil Nadu

represented by its Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The District Collector and District Magistrate,
O/o.District Collector,
Thanjavur District,
Thanjavur.

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

... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the entire records pertaining to the Detention Order No.1 of 2021, dated 08.01.2021 passed by the second respondent on the petitioner's husband namely Murugesan (40/21), son of Kathan, Keezhapoovanam, Chokkanathapuram (Post), Pattukottai Taluk, Thanjavur District, has been detained and branded as "Boot Legger" under Section (1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) r/w. order issued issued by the Government in G.O.(D).No.291, Home, Prohibition and Excise (XVI) Department, dated 15.10.2010 and confirmed at Central Prison, Tiruchirapalli to set aside the same and to produce him before this Court and set him at liberty forthwith.

For Petitioner :Mr.M.Maran

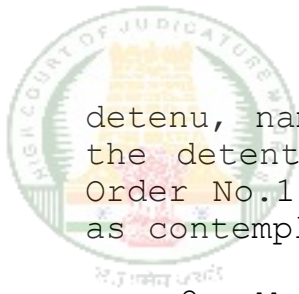
For Respondents :Mr.S.Ravi

Standing counsel for Government

O R D E R

(Order of the Court was made by K.KALYANASUNDARAM, J.)

This habeas corpus petition has been filed by the wife of the
<https://hcservices.ecourts.gov.in/hcservices/>



detenu, namely, Murugesan, S/o.Kathan, aged about 40 years, against the detention order passed by the second respondent, in Detention Order No.1 of 2021, dated 08.01.2021, branding him as "Boot Legger" as contemplated under Section 2(b) of Tamil Nadu Act, 14 of 1982.

2. Mr.M.Maran, learned counsel appearing for the petitioner would argue that the detention order has been passed based on a solitary incident. In the grounds of detention, it has been stated that he is in the habit of committing Prohibitory Offence, which shows lack of application of mind on the part of the Detaining Authority. According to the learned counsel, there is no material placed before the Detaining Authority to make such a representation, in the grounds of detention.

3. Mr.S.Ravi, learned Standing counsel appearing for the respondents, on instructions, submitted that after satisfying with the materials placed by the Sponsoring Authority, the Detaining Authority has passed the detention order and there is no illegality or infirmity in the detention order, warranting interference by this Court and hence, prayed for dismissal of the habeas corpus petition.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. In the instant case, the second respondent has passed the detention order against the detenu, on the basis of his involvement in Crime No.1006 of 2020, on the file of the Pattukottai Prohibition Enforcement Wing and there is no material available to come to a conclusion that he has committed similar offences earlier. However, the Detaining Authority, in Paragraph No.9 of the grounds of detention has stated as if he has continuously committed this type of offences. Therefore, we are of the opinion that there is a lack of application of mind on the part of the Detaining Authority, while arriving at a subjective satisfaction.

6. In fine, the Habeas Corpus Petition is allowed. The detention order in Detention Order No.1 of 2021, dated 08.01.2021, passed by the second respondent, is set aside. Consequently, the detenu, viz., Murugesan, S/o.Kathan, aged about 40 years, who is now detained at Central Prison, Tiruchirapalli, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

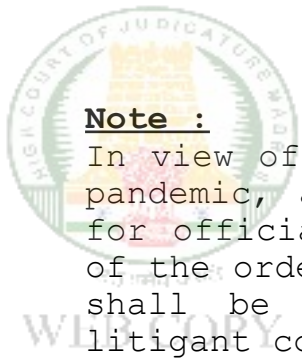
Sd/-

Assistant Registrar (CSIII)

// 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.

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To

- 1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
- 2.The District Collector and District Magistrate,
O/o.District Collector,
Thanjavur District,
Thanjavur.
- 3.The Superintendent of Prison,
Central Prison,
Tiruchirapalli.
- 4.The joint secretary to Government,
public (Law and order),
Fort saint George,
Chennai-9.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER MADE IN

H.C.P. (MD) No.634 of 2021

16.06.2021

GS (28.06.2021) 3P 6C