



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

H.C.P. (MD) No.764 of 2020

Logammal

... Petitioner/mother of detenue

-vs-

1.The Additional Chief Secretary to Government

State of Tamil Nadu

Home, Prohibition and Excise Department

Fort St.George, Chennai-600 009

2.The District Collector and District Magistrate

Office of the District Collector and District Magistrate

Sivaganga District, Sivaganga

3.The Superintendent of Prison

Madurai Special Prison for Women

Madurai

... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus calling for the entire records connected with the detention order of the respondent No.2 in Cr.M.P.No.10/D.O/2020, dated 06.09.2020 and quash the same and direct the respondents to produce the body or person of the detenue by name Kaleeswari, wife of Load Murugan @ Murugan, aged about 23 years, now detained as "Drug Offender" at Madurai Special Prison for Women, before this Court and set her at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.K.Dinesh Babu

Additional Public Prosecutor

O R D E R

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

This habeas corpus petition has been filed by the mother of the detenue, namely, Kaleeswari, wife of Load Murugan @ Murugan, aged about 23 years, challenging the detention order in Cr.M.P.No.10/D.O/2020, dated 06.09.2020, passed by the second respondent, branding her as "Drug Offender" as contemplated under Section 2(e) of Tamil Nadu Act 14 of 1982.

2. Mr.R.Alagumani, learned counsel for the petitioner, would argue that even though the petitioner has raised several grounds, he has confined his arguments only to the lack of application of mind



on the part of the Detaining Authority while reaching the subjective satisfaction. It is the submission of the learned counsel for the petitioner that the similar case referred by the Detaining Authority is not similar to the case of the detainee.

3. Mr.K.Dinesh Babu, learned Additional Public Prosecutor, while reiterating the counter affidavit filed by the second respondent, 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.

4. Heard both sides and perused the materials available on record.

5. In the instant case, the detainee was arrested on 08.07.2020 and the detention order came to be passed on 06.09.2020. It is not in dispute that investigating agency has 180 days time to file charge sheet, since the quantity of the contraband involved in this case comes under the commercial quantity. But, the Detaining Authority, while arriving at the subjective satisfaction, has referred the order passed by the Special Court for EC & NDPS Act Cases / Additional District and Sessions Court, Pudukkottai, in Cr.M.P.No.1182 of 2018, in which bail was granted to the accused therein after a lapse of 180 days. Hence, we find force in the contentions of the learned counsel for the petitioner.

6. In fine, the Habeas Corpus Petition is allowed. The detention order in Cr.M.P.No.10/D.O/2020, dated 06.09.2020, passed by the second respondent, is set aside. Consequently, the detainee, namely, Kaleeswari, wife of Load Murugan @ Murugan, aged about 23 years, who is now detained at Madurai Special Prison for Women, is directed to be released forthwith unless her presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (CO)

// 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,
Fort St.George, Chennai-600 009.
2. The Joint Secretary to Government,
Public (Law &Order)
Fort St.Goerge,
Chennai 600 009
- 3.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Sivaganga District, Sivaganga.
- 4.The Superintendent of Prison,
Madurai Special Prison for Women,
Madurai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.764 of 2020
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