



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

H.C.P. (MD) No.1186 of 2020

Muthu Lakshmi

... Petitioner

-vs-

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
 - 2.The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.
 - 3.The Inspector of Police,
Thoothukudi North Police Station,
Thoothukudi.
 - 4.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.
- ... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, directing the respondents herein to produce the detenu Visvanathan, S/o.Subbaiah, aged 48 years, who has been termed as 'Drug Offender' and who is now detained in 4th respondent's prison before this Court and to call for the entire records relating to the detention order in H.S(MD) Confdl.No.75/2020, dated 23.09.2020 passed by the 2nd respondent herein and to set aside the same and set the detenu at liberty.

For Petitioner : Mr.N.Ramesh Arumugam

For Respondents : Mr.K.Dinesh Babu
Additional Public Prosecutor



O R D E R

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

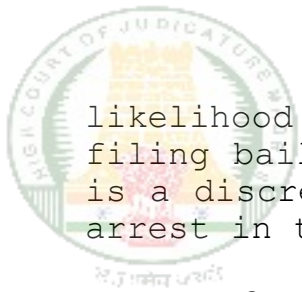
This habeas corpus petition has been filed by the wife of the detenu, namely, Visvanathan, son of Subbaiah, aged about 48 years, against the detention order passed by the second respondent, in H.S(M) Confdl. No.75/2020, dated 23.09.2020, branding him as "Drug Offender" as contemplated under Section 2(e) of Tamil Nadu Act, 14 of 1982.

2. Mr.N.Ramesh Arumugam, learned counsel appearing for the petitioner would argue that though several grounds have been raised to assail the detention order impugned in this habeas corpus petition, he is entitled to succeed in this petition mainly on the ground of non application of mind on the part of the detaining authority while arriving at subjective satisfaction. According to the learned counsel for the petitioner, the detenu was arrested in Cr.No.769 of 2020 by the Thoothukudi North Police Station and was remanded to judicial custody. His bail application in Cr.M.P.No.524 of 2020 was pending before Special Court for NDPS Act cases, Madurai, but the detaining authority has referred in para-7 of the detention order that there is likelihood of the detenu for coming out on bail by filing bail petition before the appropriate Court. Similarly with regard to arrest intimation at page No.21, it is stated that the information was given to petitioner's wife Muthulakshmi, but Page No.27 it is mentioned that the intimation was given to the son-in-law, namely, Moorthi, which shows the non-application of mind on the part of the detaining authority.

3. Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor, while reiterating the counter filed by the second respondent, submitted that the detenu was found in possession of Ganja and hence, the second respondent has rightly detained him under Act 14 of 1982 only to prevent the detenu from indulging in similar activities in future which is prejudicial to the maintenance of public order. According to the learned Additional Public Prosecutor, there is no illegality or irregularity in the order of detention passed by the second respondent warranting interference of this Court and hence, he 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. As rightly pointed out by the learned counsel for the petitioner that the detenu Visvanathan was arrested by the Thoothukudi North Police for his involvement in Cr.No.769 of 2020 and the bail petition was pending, but the detaining authority while reaching the subjective satisfaction has stated that there is



likelihood of the detenu for coming out on bail in the above case by filing bail petition before the appropriate Court. Likewise, there is a discrepancies in the intimation given to the relatives for the arrest in the ground case as referred above.

6. In the light of the above facts and circumstances, we are convinced that there is a lack of application of mind on the part of the detaining authority while reaching the subjective satisfaction. Hence, the impugned detention order is liable to be set aside.

7. In fine, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in H.S.(M) Confdl.No.75/2020, dated 23.09.2020, is set aside. Consequently, the detenu, namely, Visvanathan, son of Subbaiah, aged about 48 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-II)

// True Copy //

/ /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 Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
- 2.The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.
- 3.The Inspector of Police,
Thoothukudi North Police Station,
Thoothukudi.

<https://hcservices.ecourts.gov.in/hcservices/>



4.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.(In duplicate for communication to Detenu)

5.The Joint Secretary to Government, Public (Law & Order)
Fort Saint George, Chennai-9

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

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-13030[F] dated
23/03/2021)

H.C.P. (MD) No.1186 of 2020

22.03.2021

CN(17.05.2021) 4P 8C