



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2022

Coram

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

H.C.P.No.1940 of 2021

Prakash
S/o.Vediyappan

.. Petitioner

Vs.

- 1.The State of Tamil Nadu
represented by its
Secretary to Government (Home),
Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
 - 2.The Secretary to the Government,
Co-operation, Food and Consumer
Protection Department,
Second Floor, Namakkal Kavignar Maaligai,
Secretariat, Chennai - 600 009.
 - 3.The Additional Secretary to Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
(Department of Consumer Affairs),
Room No.270, Krishi Bhavan,
New Delhi - 110 001.
 - 4.The Commissioner of Police,
Salem City.
 - 5.The Superintendent,
Special Prison for Women,
Coimbatore.
 - 6.The Inspector of Police,
Civil Supplies CID, Salem.
- .. Respondents



Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records in connection with the order of detention passed by the fourth respondent in C.M.P.No.2/Black Marketer/Salem City/2021 dated 26.10.2021 under Act 14 of 1982 against the petitioner's mother, namely, Parimala w/o.Vediyappan, aged about 47 years, who is confined at Special Prison for Women, Coimbatore and set aside the same and consequently, direct the respondents to produce the detenu before this Court and set her at liberty forthwith.

For Petitioner :Mr.R.Nalliyappan

For Respondents :Mr.M.Babu Muthu Meeran
Additional Public Prosecutor

ORDER

[Order of the Court was made by P.N.PRAKASH, J]

The petitioner is the son of the detenu viz., Parimala w/o.Vediyappan, aged about 47 years. The detenu has been detained by the fourth respondent by his order in C.M.P.No.2/Black Marketer/Salem City/2021 dated 26.10.2021, holding him to be a "Black Marketer", as contemplated under the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act 7 of 1980). The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. On a perusal of the detention order, we find that in paragraph No.8 of the grounds of detention, the detaining authority has relied upon an order of bail that was granted to the co-accused Balakrishnan in CSCID Salem Unit Crime No.61 of 2021 in order to show that the detenu in this case would also be released similarly. However, it is seen that the said Balakrishnan was released on bail on 10.05.2021 as he was affected by Covid-19. Hence, the Detaining Authority has passed the Detention order in total non-application of mind which would vitiate the detention order.



In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.2/Black Marketer/Salem City/2021 dated 26.10.2021 passed by the fourth respondent is set aside. The detenu, viz., Parimala w/o.Vediyappan, aged about 47 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

gm

To

- 1.The Secretary to Government (Home),
Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The Secretary to the Government,
Co-operation, Food and Consumer
Protection Department,
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- 4.The Commissioner of Police,
Salem City.
- 5.The Superintendent,
Special Prison for Women,
Coimbatore.
- 6.The Inspector of Police,
Civil Supplies CID, Salem.



7.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.

8.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1940 of 2021

JP-II (CO)
CB(20/04/2022)