



HCP(MD)No.1499 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.10.2022

CORAM

THE HON'BLE MRS JUSTICE J. NISHA BANU
AND
THE HON'BLE MR JUSTICE N. ANAND VENKATESH

H.C.P.(MD)No.1499 of 2022

V.Santhi

... Petitioner / Wife of Detenue

/Vs./

- 1.State of Tamil Nadu, rep.by
The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
- 2.The District Collector and District Magistrate,
O/of the District Collector and District Magistrate,
Nagapattinam District, Nagapattinam.
- 3.The Superintendent,
Central Prison,
Tiruchirappalli.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the entire records in detention passed in C.O.C.No.15/2022 dated 09.03.2022 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's husband



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namely, Velavan, S/o.Kaliyaperumal, male, aged 52 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.K.A.S.Prabhu

For Respondents : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

ORDER

J. NISHA BANU,J.

and

N. ANAND VENKATESH,J.

The petitioner is the wife of the detenu viz., Velavan, S/o.Kaliyaperumal aged about 52 years. The detenu has been detained by the second respondent by his order in Detention Order C.O.C.No.15/2022, dated 09.03.2022 holding him to be a "Bootlegger", as contemplated under Section 2(b) of Tamil Nadu Act 14 of 1982. 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.



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3. Apart from the other grounds, the main ground that was urged by the learned counsel appearing for the petitioner is that the detaining authority had taken into consideration the dismissal of all the bail petitions filed by the detenu and in spite of the same, the detaining authority has recorded satisfaction that there is a real and imminent possibility of the detenu coming out on bail without any material. Therefore, it was urged that the detention order suffers from non-application of mind.

4. The learned counsel for the petitioner submitted that the detaining authority, without the availability of materials, cannot *ipso facto* satisfy himself regarding the imminent possibility of the detenu coming out on bail.

5. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition.

6. Insofar as the main ground that was urged by the learned counsel for the petitioner, we have carefully considered the detention order, particularly, paragraph No.6 of the order. The detaining authority has



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recorded the dismissal of all the bail petitions filed by the detenu. However, a satisfaction has been recorded as if there is a real and imminent possibility of the detenu coming out on bail by filing bail application before the appropriate Court. To arrive at the satisfaction, there is absolutely no material and the detaining authority has not even placed reliance upon any similar case to atleast come to the conclusion that bail has been granted in a similar case. It is very clear that the detention order suffers from illegality. The impugned detention order is therefore liable to be quashed.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.O.C.No.15/2022, dated 09.03.2022, passed by the second respondent is set aside. The detenu, viz., Velavan, S/o.Kaliyaperumal, aged about 52 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(J.N.B.,J.) (N.A.V.,J.)
14.10.2022

Index : Yes/No
Internet : Yes
ta/Ns



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