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HCP No.2691 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2023

Coram

The Hon'ble Mr. Justice **M.SUNDAR**
and

The Hon'ble Mr. Justice **M.NIRMAL KUMAR**

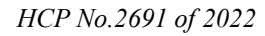
H.C.P. No.2691 of 2022

R.Usha
W/o.Raja

... Petitioner(wife of detenu)

-VS-

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government
Prohibition & Excise Department [Home]
Fort St. George,
Chennai – 600 009.
- 2.The District Collector and District Magistrate,
Thirupathur District,
Thirupathur District Collectorate,
Thirupathur.
- 3.The Superintendent of Police,
Vellore District,
Vellore.
- 4.The Superintendent of Prison,
Central Prison,
Vellore.



... Respondents

For Petitioner	..	Mr.K.Madhu
For Respondents	..	Mr.R.Muniyapparaj Additional Public Prosecutor

[Order of the Court was made by M.SUNDAR, J.]

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detention order has been made by the second respondent, i.e. 'jurisdictional District Collector and District Magistrate' who shall hereinafter be referred as 'detaining authority' for the sake of convenience and clarity.

2.Mr.K.Madhu, learned counsel on record for petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor for the respondents are before us.

3.To be noted, the impugned detention order has been made interalia under the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980 [Act 7 of 1980] [hereinafter 'Blackmarketing and EC Act' for the sake of convenience and clarity].

4.Notwithstanding very many averments in the support affidavit, learned counsel for petitioner predicated his argument on one point and that point turns on Section 8(1) of Blackmarketing and EC Act which mandates that the authority making the detention order should communicate the grounds to the detenu ordinarily not later than five days from the date of



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detention. In the case on hand, the grounds that have been served on the detenu who is incarcerated, in the form of booklet has been placed before us. A careful perusal of the booklet brings to light that the grounds qua the impugned detention order has been served on the detenu on 17.10.2022. This is clearly later than five days from the date of detention. A careful perusal of Section 8(1) of Blackmarketing and EC Act brings to light that there is a distinction between ordinary circumstances and exceptional circumstances. It is nobody's case that there are exceptional circumstances in the case on hand. Therefore, five days is the cap. In the case on hand, the grounds of detention has been communicated to the detenu later than five days. Therefore, there is a clear infraction of Section 8(1) of Blackmarketing and EC Act. This one point is good enough to dislodge the detention.

5.As the matter turns on obtaining facts/borne out of records and the booklet which has been placed before us, the question of contra arguments by the State Counsel really does not arise.



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6.Ergo, the sequitur is, captioned HCP is allowed and the detention order dated 12.10.2022 bearing reference C3.D.O.No.54/2022 is set aside and the detenu Raja, aged 47 years, son of Deivasigamani is directed to be set at liberty forthwith unless required in connection with any other case. There shall be no order as to costs.

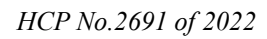
(M.S,J.) (M.N.K.,J.)
01.02.2023

Index:Yes

Neutral Citation : Yes

cse

Note: The Registry to forthwith communicate this order to Jail authorities in Central Prison, Vellore.



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**M.SUNDAR, J.
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