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H.C.P.No.235 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.235 of 2024

Vijayarangan

... Petitioner/father of the detenue

Vs.

1.The Additional Secretary to Government,
Ministry of Consumer Affairs,
Food and Public Distribution (Department of Consumer Affairs),
Room No.270, 'Krishi Bhavan',
New Delhi-110 001.

2.The Principal Secretary to Government,
Department of Co-operation,
Food and Consumer Protection Department,
2nd Floor, Namakkal Kavignar Maaligai,
Secretariat, Chennai-600 009.

3.The District Collector and
District Magistrate of Vellore District,
Vellore-9.

4.The Superintendent of Police,
Vellore District.



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5.The Superintendent of Prison,
Central Prison, Vellore.

6.The Inspector of Police,
Civil Supplies Crime Investigation Department,
Vellore Unit.

... Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Habeas Corpus, to call for the records in connection with the order of detention passed by the second respondent dated 22.01.2024 in C3/D.O.No.05/2024 against the petitioner's son, Ashok Kumar, aged 42 years, S/o.Vijayarangan, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenue before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor
assisted by Mr.C. Aravind

ORDER

(Order of the Court was made by *SUNDER MOHAN, J.*)

The petitioner, who is the father of the detenu viz., Ashok Kumar, aged 42 years, S/o.Vijayarangan, confined at Central Prison, Vellore, has come forward with this petition challenging the detention order passed by



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the second respondent dated 22.01.2024 slapped on his son, branding him as "Back Marketeer" under the provision of Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act, 7 of 1980).

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his arguments on the ground that the Detaining Authority, in the grounds of detention, stated the detainee had filed two bail applications in CrI.M.P.Nos.17266 of 2023 and CrI.M.P.No.371 of 2024 in the ground case and the same were dismissed on 03.01.2024 and 12.01.2024 respectively and arrived at a subjective satisfaction that the detainee is likely to be released on bail. However, the said statement has no basis as the sponsoring authority did not obtain any statement of the relatives of the detainee. Hence, there is non application of mind on the part of the Detaining Authority.



4. Heard the learned counsel on either side and perused the materials on record.

5. Though the detaining authority has stated that the bail applications in CrI.M.P.Nos.17266 of 2023 and CrI.M.P.No.371 of 2024 filed by the detenu in the ground case were dismissed, the detaining authority arrived at a subjective satisfaction that the detenu is likely to come out on bail. However, the said statement of the detaining authority is a mere *ipse dixit* and has no basis whatsoever as the sponsoring authority has not obtained the statement of the relatives or placed any other material to show that the detenu is likely to file a bail application. On this ground, the order of detention is liable to be interfered with.

6. In the light of the above discussion, we have no hesitation in quashing the order of detention on the ground of non application of mind on the part of the Detaining Authority.

7. Accordingly, the detention order passed by the second respondent, in C3/D.O.No.05/2024, dated 22.01.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Ashok



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Kumar, aged 42 years, S/o.Vijayarangan, confined at Central Prison, Vellore, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[M.S.R., J] [S.M., J]
24.04.2024

Index: Yes/No
Speaking/Non-speaking order

Anu

To

1.The Additional Secretary to Government,
Ministry of Consumer Affairs,
Food and Public Distribution (Department of Consumer Affairs),
Room No.270, 'Krishi Bhavan',
New Delhi-110 001.

2.The Principal Secretary to Government,
Department of Co-operation,
Food and Consumer Protection Department,
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Vellore District.

M.S.RAMESH, J.
and



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SUNDER MOHAN, J.

Anu

5.The Superintendent of Prison,
Central Prison, Vellore.

6.The Inspector of Police,
Civil Supplies Crime Investigation Department,
Vellore Unit.

7.The Joint Secretary,
Law and Order Department,
Secretariat, Chennai.

8.The Public Prosecutor,
High Court, Madras.

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