



HCP.No.2809 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 18.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
and
THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

H.C.P.No.2809 of 2024

Jaseena

Vs.

... Petitioner

1.The Secretary to Government
Co-operation Food and Consumer Production Department
2nd Floor, Namakkal Kavingar Maligai
Secretariat, Fort St. George
Chennai – 600 009

2.The Commissioner of Police / Detaining Authority
Coimbatore City
Coimbatore District

3.The Addl. Secretary
Government of India
Ministry of Consumer Affairs
Food and Public Distribution
(Dept. of Consumer Affairs)
Room No.270, Krishi Bhawan
New Delhi 110 001

4.The Superintendent of Prison
Central Prison - Coimbatore
Coimbatore District



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5. The Inspector of Police
Civil Supply-CID- Pollachi
Coimbatore District
(Crime No.299/2024)

... Respondents

Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus calling for the entire records relating to the petitioner's husband detention Under EC Act, 1980 (Central Act 7 of 1980) vide detention order dated 17.10.2024 on the file of the second respondent herein made in proceedings C.No.02/PBMMSEC. Act/IS /2024, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband namely M.HABEEB RAHUMAN @ ABI, S/o.Mohamed Ismail, aged 47 years before this Court and set the petitioner's husband at liberty from detention, now the petitioner's husband detained at Central Prison, Coimbatore.

For Petitioner	: Mr.W.Camyles Gandhi
For Respondents	: Mr.R.Muniyapparaj Additional Public Prosecutor assisted by Mr.M.Sylvester John

ORDER

M.S.RAMESH, J.
AND
N.SENTHILKUMAR, J.

The petitioner, who is the wife of the detenu viz. M.Habeeb Rahuman @ Abi, aged about 47 years, S/o.Mohamed Ismail, who is confined at



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Central Prison, Coimbatore, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 17.10.2024 slapped on her husband, branding him as "BLACK MARKETEER" under the Tamil Nadu Act 14 of 1982.

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

3.Though several points have been raised by the learned counsel for the petitioner, the detention order is liable to be quashed on the sole ground that the subjective satisfaction of the Detaining Authority regarding the possibility of the detenu coming out on bail by relying upon the bail order granted to the accused in a similar case, suffers from non-application of mind.

4.In paragraph No.7 of the Grounds of Detention, the Detaining Authority has stated that there is a possibility of the detenu coming out on bail in the ground case since in a similar case, bail was granted to the detenu



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therein and relied upon an order passed by the Judicial Magistrate No.4, Coimbatore, in CrI.MP.No.4936/2022. On a perusal of the said order in page No.129 of the Booklet, this Court finds that the said order relates to release of the accused on bail u/s.167[2] of Cr.P.C., since the accused therein had been in prison for more than 60 days and not on merits. Therefore, it is not a similar case and the subjective satisfaction of the Detaining Authority, regarding the possibility of the detenu coming out on bail suffers from non-application of mind, which vitiates the detention order.

5.The Hon'ble Supreme Court, in the case of ***Rekha Vs. State of Tamil Nadu through Secretary to Government and Another*** reported in ***2011 [5] SCC 244***, has dealt with a situation where the Detention Order is passed without an application of mind. In case any of the reasons stated in the order of detention is non-existent or a material information is wrongly assumed, that will vitiate the Detention Order. In the instant case, the Detaining Authority has arrived at the subjective satisfaction that the detenu is likely to be released on bail by referring to a bail order granted to an accused in a similar case in CrI.MP.No.4936/2022. However, the said bail



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was granted on the ground that accused is entitled to statutory bail and not on merits and therefore, the subjective satisfaction of the Detaining Authority that the detenu is likely to be released on bail suffers from non-application of mind. Hence, on the above grounds, the Detention Order is liable to be quashed.

6.In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 17.10.2024 in C.No.02/PBMMSEC Act/IS//2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz. M.Habeeb Rahuman @ Abi, aged about 47 years, S/o.Mohamed Ismail, confined presently at Central Prison, Coimbaore is directed to be set at liberty forthwith unless his confinement is required in connection with any other case.

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

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Index : Yes / No
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