
(2013) 06 MAD CK 0294
In the Madras High Court
Case No : H.C.P. No. 463 of 2013

Indira

APPELLANT

Vs

Principal Secretary to Government Home, Prohibition and
Excise Dept. and Another

RESPONDENT

Date of Decision : 05-06-2013

Acts Referred:

Citation : (2013) 3 MLJ(Cri) 767

Hon'ble Judges : V. Dhanapalan, J;C.T. Selvam, J

Bench : Division Bench

Advocate : V. Paarthiban, for the Appellant; M. Maharaja, Additional Public
Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

V. Dhanapalan, J.—The petitioner, who is the wife of detenu, namely, Agoramoorthy, S/o. Arumugam, has challenged the order of detention passed by the 2nd respondent dated 7.3.2013 made in C.O.C. No. 17 of 2013, branding the detenu as a "Boot-Legger" as contemplated under the Tamil Nadu Act 14 of 1982. Though learned counsel for the petitioner has raised several other grounds to assail the impugned order of detention, he mainly focussed his argument on the ground that the decision of the detaining authority with regard to the imminent and real possibility of the detenu coming out on bail even after dismissal of four bail applications consecutively, was without cogent material. Therefore, on this sole ground, the learned counsel for the petitioner has urged this Court to quash the order of detention.

2. Heard the learned Additional Public Prosecutor appearing on behalf of the respondents, who would vehemently contend that there is a real possibility of petitioner moving repeated bail petitions to come out on bail. Therefore, the order of detention cannot be faulted with and the same is liable to be upheld.

3. Heard the learned counsel on either side and perused the materials available

on record.

4. On a careful scrutiny of the impugned order, it is seen that the detaining authority, taking into account the imminent possibility of petitioner being enlarged on bail and the likelihood of the same is prejudicial to the public order and health, has passed the impugned detention order.

5. It is also noticed that the reason for passing such detention order is that on dismissal of bail application on 18.2.2013 by the learned Judicial Magistrate, Sirkazhi in connection with the ground case, the detenu has immediately filed another bail application before the learned Sessions Court, Nagapattinam in Cr.M.P. No. 442 of 2003, which was subsequently dismissed by the Sessions Court on 26.2.2013. Thereafter, one more bail petition was filed by the detenu in Cr.M.P. No. 475 of 2013 dated 1.3.2013 before the very same Sessions Court, which again stood dismissed on 1.3.2013. Ultimately, the detenu has left with no other option, but to file one more bail petition in Crl. M.P. No. 514 of 2013 before the Sessions Court, Nagapattinam, which was also dismissed on 7.3.2013.

6. Under these circumstances, the detaining authority has taken a decision on 7.3.2013 to detain the detenu without any valid material in support thereof and passed the impugned order of detention in mechanical manner. In absence of any material information and supporting document, how the detaining authority has taken a decision to detain a person, which really shows the non application of mind on the part of detaining authority. Moreover, on the very same date of dismissal of bail petition itself, the detaining authority has passed the order of detention hurriedly. For the reasons stated herein-above, the impugned detention order cannot be sustained and is vitiated in law. Accordingly, the impugned detention order passed by the 2nd respondent, detaining the detenu, namely, Agoramoorthy, S/o. Arumugam, made in C.O.C. No. 17 of 2013 dated 7.3.2013 is quashed and the Habeas Corpus Petition is allowed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.