

(2006) 01 MAD CK 0023

In the Madras High Court

Case No : Habeas Corpus Petition No. 1037 of 2005

Mari

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 30-01-2006

Acts Referred:

Citation : (2006) 01 MAD CK 0023

Hon'ble Judges : P. Sathasivam, J;J.A.K. Sampathkumar, J

Bench : Division Bench

Advocate : C.C. Chellappan, for the Appellant; Abudukumar Rajarathnam, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.

1. The petitioner, who is detained as "Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug

Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) by

the impugned detention order dated 28.07.2005, challenges the same in this Petition.

2. Heard learned counsel for the petitioner and learned Government Advocate for the respondents.

3. At the foremost, learned counsel appearing for the petitioner, by drawing our attention to paragraph No. 4 of the grounds of detention, would

submit that in the Tamil version of the grounds of detention, though the Detaining Authority has referred to pendency of bail petition before the

Sessions Court, Chengalpattu, he has concluded that the detenu will come out on

bail by filing bail application. In other words, according to the counsel, the Detaining Authority has proceeded that the detenu has not moved any bail petition and that he will come out by filing bail petition, which is factually incorrect, though correctly stated in the English version.

4. We heard learned Government Advocate on the above aspect and also verified paragraph No. 4 of the grounds of detention, both English and

Tamil version. It is true that in the English version, the Detaining Authority, after noting the fact that the detenu was in remand in P.E.W. St.Thomas

Unit Crime No. 75/2005 and has moved bail petition before the Sessions Court, Chengalpattu, in CrI.M.P. No. 8761 of 2005 and the same is

pending, has concluded that there is imminent possibility of his coming out on bail, taking note of pendency of the bail petition and of the fact that in

similar cases bails are granted by the Sessions Court or High Court. However, as rightly pointed out by the learned counsel for the petitioner, in the

Tamil version of the grounds of detention, the Detaining Authority, after noting that the detenu filed bail petition in CrI.M.P. No. 8761 of 2005 and

that the same is also pending on the date of passing the detention order, while arriving at the subjective satisfaction, has observed that the detenu

may come out on bail by filing bail application. In paragraph No. 4, the Detaining Authority has stated thus:-

(Vernacular text deleted)

The above statement, as rightly pointed out by the learned counsel for the petitioner, shows that the Detaining Authority has not applied his mind

and mechanically arrived at the conclusion that the detenu may come out on bail by filing bail application when, in fact, he himself stated about filing

of bail application in the earlier portion of the very same paragraph. We are satisfied that the impugned order of detention is liable to be quashed

on the ground of non-application of mind on the part of the Detaining Authority.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty

forthwith from the custody unless he is required in some other case.