

(2006) 06 MAD CK 0123

In the Madras High Court

Case No : Habeas Corpus Petition No. 222 of 2006

N. Chinnathai

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 19-06-2006

Acts Referred:

Constitution of India, 1950 — Article 22(5)

Citation : (2006) 06 MAD CK 0123

Hon'ble Judges : V. Dhanapalan, J;P. Sathasivam, J

Bench : Division Bench

Advocate : Abudukumar Rajarathinam, for the Appellant; Babu Muthu Meeran, Assistant Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner herein challenges the order of detention, dated 11.02.2006, detaining her husband by name Nagaraj 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).

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner, submitted that the detenu was not supplied with the relied on documents, which vitiates the

ultimate order of detention. By taking us through para No. 5 of the grounds of detention, learned counsel contended that though the Detaining

Authority mentioned the details regarding the bail petition filed before the District Court as well as this Court, copies of those documents were not

supplied to the detenu, which prevented him from making effective representation, and also infringed the right given to him under Article 22(5) of the Constitution.

4. On going through the specific reference made in paragraph No. 5 relating to the orders passed by the District Court and this Court as well as

pendency of Criminal Original Petition to enlarge the detenu on bail, we are of the view that those documents were heavily relied on by the

Detaining Authority before arriving at the subjective satisfaction as regards the detenu's coming out on bail. In such circumstances, we hold that

failure to supply those documents vitiates the ultimate detention order.

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 or cause.