

(2004) 02 MAD CK 0110

In the Madras High Court

Case No : Habeas Corpus Petition No. 1847 of 2003

Rukumani

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 06-02-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 02 MAD CK 0110

Hon'ble Judges : V. Kanagaraj, J;N.V. Balasubramanian, J

Bench : Division Bench

Advocate : S. Ashokan, for the Appellant; Abudu Kumar Rajarathinam, Government Advocate (Crl. Side), for the Respondent

Final Decision : Allowed

Judgement

N.V. Balasubramanian, J.—This Habeas Corpus Petition has been filed by the petitioner, who is the wife of the detenu Selvaraj, for a direction to call for records relating to the order of the second respondent in C1/65778/2003

dated 29.10.2003 whereby the said authority has detained the detenu as a bootlegger under preventive detention invoking the provisions of Act 14 of 1982 on the ground that he is a threat to public order and quash the same.

2. We heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) for the respondents.

3. We find from the grounds of detention, the detaining authority, while considering the question of imminent possibility of the detenu coming out on bail, has stated as under:

... However there is an imminent possibility of coming out on bail by filing fresh bail application in future. ...

However, in the Tamil translation of the grounds of detention it has been stated under:

vjph; fhyj;jpy; g[jpjhf \$hkPd; kDtpid jhf;fy;bra;J \$hkPdpy; btsptu tha;g;g[fs; cs;sJ vd;gija[k; ,J nghd;w tHf;Ffspy; Fw;wk; rhl;lg;gl;lth;fs; ,nj ePjpkd;wj;jhy; my;yJ ,jw;Fnky; cs;s ePjpkd;w";fshy; rpwpJ fhyk; fHpj;J \$hkPdpy; tpLjiy bra;ag;gLfpd;wdh; vd;gija[k; ehd; ed;F mwpntd;;; / :::

We find there is an incorrect translation in the Tamil version of the grounds of detention as the grounds of detention show that there was an imminent possibility for the detenu coming out on bail. However, in the Tamil version of the grounds of detention, it has been stated that there is possibility for the detenu coming out on bail. In other words, in the Tamil version the expression "imminent possibility" have not been properly translated and it is stated therein that there

is a possibility for the detenu to come out on bail. We therefore hold that there is an incorrect translation of the grounds of detention which shows the non application of mind on the part of the detaining authority preventing the detenu to

make an effective representation against the order of detention. On this ground, the impugned order of detention is liable to be quashed.

4. This Habeas Corpus Petition stands allowed. The impugned order of detention dated 29.10.2003 passed in the case of the detenu Selvaraj is set aside. The detenu is directed to be set at liberty forthwith, unless he is required in connection with some other case or cause.