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(2007) 03 MAD CK 0037

Madras High Court

Case No: Habeas Corpus Petition No. 1286 of 2006

Mrs. Vasantha	APPELLANT
Vs	
The Secretary to Government, Prohibition and Excise Department, Government of Tamil Nadu, Fort St. George, Chennai 600 009 and The District Magistrate, and District Collector, Vellore District, Vellore	RESPONDENT

Date of Decision: March 30, 2007

Citation: (2007) 1 LW(Cri) 484

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

Bench: Division Bench

Advocate: A.K.S. Thahir, for the Appellant; M. Babu Muthu Meeran Additional Public Prosecutor, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

P.K. Misra, J.
Heard the learned Counsel appearing for the parties.

2. The order of detention on the allegation that the detenu is a "Bootlegger" is in question.

3. The detaining authority in paragraph 5 of the grounds of detention has observed as follows:

5. I am aware that Thiru. Balasundaram is in remand in Arcot Taluk Police Station Crime No. 275/2006 u/s 4(1)(i), 4(1)(aaa), 4(1-A)(ii) Tamil Nadu Prohibition Act Read with 328 IPC and he has moved the bail application in Crl.M.P. No. 9342/2006 before the Sessions Court, Vellore and the same was dismissed on 7.11.2006. Further I am also aware that a bail application was moved before the Hon"ble High Court, Chennai in Crl.O.P. No. 29332/2006 and is pending. However there is most likely that he may come out on bail for the above case, since in similar cases, bails are granted by the High Court after lapse of time.

4. The learned Counsel appearing for the Petitioner has submitted that in fact the bail application of the accused/detenu was rejected by the High Court on 27.11.2006 and yet the aforesaid aspect was never brought to the notice of the detaining authority. It is therefore contended that the detaining authority mechanically passed the order without proper satisfaction regarding the possibility of the detenu coming out of bail by taking into account the relevant facts, particularly, the

5. Hence, the Habeas Corpus Petition is allowed. Impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith, unless he is required in connection with any other case.