

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2018

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.993 of 2018

Suganthi

.. Petitioner

Vs.

1. The Secretary to Government,
Government of India,
Ministry of Home Affairs,
Department of Internal Security,
North Block, New Delhi-110 001.
2. State of Puducherry Represented by
The Secretary to Government,
Home, Prohibition and Excise Department,
Puducherry.
3. The District Magistrate-cum-Authorised Officer,
Office of the District Magistrate,
Government of Puducherry, Puducherry.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records relating to the order of detention 02/DM/RO/D2/PPASAA/2018 dated, 16/04/2018 passed by the 2nd respondent and to quash the same and also to direct the detenu Sugu @ Sugumar, M/A 33 Years, S/O.Elumalai, who is presently detained in the Central Prison, Kalapet, Puducherry to be produced before this Hon`ble court and set at liberty.

For Petitioner : Mr.U.Yuvaraj

For Respondents : Mr.D.Bharathachakravarthi
Public Prosecutor (Pondicherry).

O R D E R

[Order of the Court was made by C.T.SELVAM, J.]

Challenge is made to the order of detention passed by the third respondent vide Proceedings in No.02/DM/RO/D2/PPASAA/2018 dated 16.04.2018, whereby the detenu, by name, Sugu @ Sugumar, son of Elumalai, was ordered to be detained under Sub Section (1) of Section 3 of the Puducherry Prevention of Anti-Social Activities Act, 2008 (Act No.10 of 2010) branding him as a "DANGEROUS PERSON".

2. The detenu has come to adverse notice in the following cases:-

S.No.	Police Station & Crime No.	Section of Law
1.	Thirukkanur Police Station, Puducherry Crime No.159/2009	147, 148, 452, 324, 427, 506(ii) IPC r/w 34 IPC
2.	Kiramiya Police Station, Tiruvannamalai District Crime No.719/2011	147, 148, 448, 427, 302 IPC r/w 149 IPC
3.	Gramiya Police Station, Tiruvannamalai District Crime No.724/2011	147, 148, 341, 392 IPC r/w 397 IPC
4.	Nellikuppam Police Station Crime No.540/2011	Man Missing @ 147, 148, 201, 120(B), 302 IPC
5.	Mailam Police Station Villupuram District Crime No.845/2012	147, 148, 364 & 506(ii) IPC @ 147, 148, 341, 364 IPC r/w 149, 302 & 201 IPC
6.	Thirubuvanai Police Station Puducherry Crime No.49/2013	395, 109 IPC r/w 34 IPC

The ground case has been registered against the detenu in Cr.No.35 of 2018 on the file of Thirubuvanai Police Station for offence u/s 25(1-B) of Arms Act, 1959 & 506(ii) IPC. The detention order has been passed by third respondent in No.02/DM/RO/D2/PPASAA/2018.

3. Though many grounds have been raised in the petition, the learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

4. Learned counsel appearing for the petitioner submitted that in the copy of bail petition in the ground case, Crime Number was not stated in the booklet furnished to the detenu.

This would deprive the detenu of making effective representation to the authorities against the order of detention. Thus, the detention order is vitiated on this ground and the same is liable to be quashed.

4. Per contra, the learned Additional Public Prosecutor would submit that the order of detention has been passed on cogent and sufficient materials and the same cannot be interfered with at the instance of the petitioner. Therefore, he submits that the Habeas Corpus Petition does not merit any consideration and the same is liable to be dismissed.

5. We have heard learned counsel for both sides with regard to the facts.

6. A perusal of the booklet supplied to the detenu would show that the copies of documents referred and relied upon and referred to by the Detaining Authority, have not been properly produced in the booklet with regard to the mentioning of Crime Number as discussed above. This has resulted in the detenu being deprived of making an effective representation. Therefore, the detention order is vitiated and liable to be quashed on this ground alone.

7. It is a trite law that personal liberty protected under Article 21 is so sacrosanct and so high in the scale of Constitutional values that it is the obligation of the detaining authority to show that the impugned detention meticulously accords with the procedure established by law. Preventive detention is preventive and not punitive. When ordinary law of the land is sufficient to deal with, taking recourse to the preventive detention law is illegal.

8. In the light of the above facts and law, we have no hesitation in quashing the order of detention on the above mentioned ground.

9. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in No.02/DM/RO/D2/PPASAA/2018 dated 16.04.2018 passed by the third respondent is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

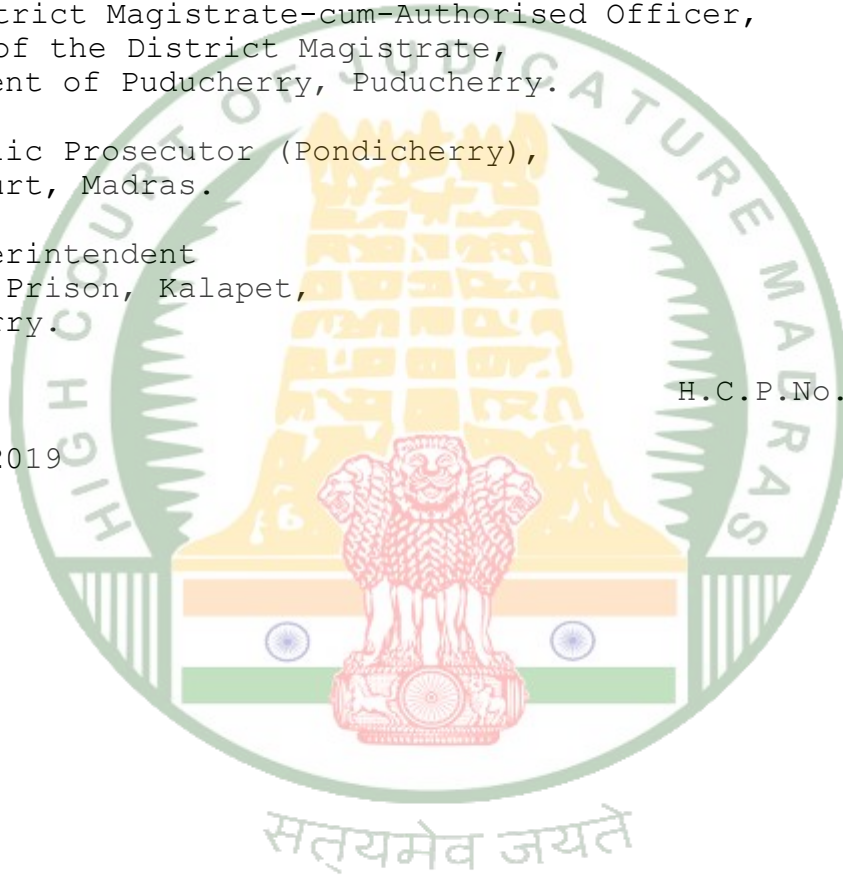
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To

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- 4.The Public Prosecutor (Pondicherry),
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- 5.The Superintendent
Central Prison, Kalapet,
Puducherry.

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