

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice M. NIRMAL KUMAR

H.C.P. No.715 of 2019

Sumathi

... 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.The Lieutenant Governor,
Rajnivas, Puducherry.

3.The District Magistrate cum
Authorised Officer,
Office of the District Magistrate,
1st Floor,
Vazhadvavoor Road,
Kavundampalayam,
Puducherry - 605 009.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records relating to the detention order in No.01/DM/RO/D2/PPASAA/2019 dated 22.02.2019 passed by the third respondent under the Puducherry Prevention of Anti-Social Activities Act, 2008 (Act 10 of 2010) and set aside the same and direct the respondent to produce the petitioner's son Sivaperumal @ Sathiya, S/o.Saravanan aged about 23 years the detenu, now confined in Central Prison, Kalapet, Puducherry before this Court and set the petitioner's son Sivaperumal @ Sathiya, S/o.Saravanan aged about 23 years the detenu herein at liberty.

For Petitioner Mr.D.Gopikrishnan

For Respondents Mr.S.S.Pajaniradja, CGSC
 for R1
 Mr.D.Bharatha
 Chakravarthy
 Public Prosecutor
 (Puducherry)
 for R2 and R3

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner is the mother of the detenu Sivaperumal @ Sathiya, S/o.Saravanan, aged about 23 years. The detenu has been detained by the third respondent by his order in No.01/DM/RO/D2/PPASAA/2019 dated 22.02.2019, holding him to be a "Dangerous Person", as contemplated under sub section (2) of Section 3 of the Puducherry Prevention of Anti-social Activities Act, 2008 (Act No.10 of 2010). The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner, learned counsel appearing for the first respondent and the learned Additional Public Prosecutor (Puducherry) appearing for respondents 2 and 3. We have also perused the records produced by the Detaining Authority.

3.The learned counsel for the petitioner assailed the order of detention on the grounds that the materials relied on by the detaining authority were not furnished to the detenu and some of the documents furnished were also illegible. He would further submit that the documents relied on by the detaining authority were not translated in vernacular language and the grounds of detention in English were not properly translated in Tamil, which, according to the detenu, deprived of his opportunity to make effective representation to the Government opposing the order of detention and hence, the order of detention is liable to be quashed.

4.There is no satisfactory explanation offered by the learned Public Prosecutor appearing for the detaining authority.

5. On a perusal of the booklet furnished to the detenu and the grounds of detention, we are of the view that the documents relied on by the detaining authority and the grounds of detention were not properly translated in vernacular

language, thereby the detenu is deprived from making effective representation. Further, the representation of the detenu has been considered by the Advisory Board only and not by the Government. This would also vitiate the order of detention. Hence the impugned order of detention is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.01/DM/RO/D2/PPASAA/2019 dated 22.02.2019 passed by the third respondent is set aside. The detenu Sivaperumal @ Sathiya, S/o.Saravanan aged about 23 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

1.The Secretary to Government,
Government of India,
Ministry of Home Affairs,
Department of Internal Security,
North Block, New Delhi - 110 001.

2.The Lieutenant Governor,
Rajnivas, Puducherry.

3.The District Magistrate cum
Authorised Officer,
Office of the District Magistrate,
1st Floor, Vazhadhavoor Road,
Kavundampalayam,
Puducherry - 605 009.

4.The Superintendent,
Central Prison, Kalapet,
Puducherry.

5.The Public Prosecutor,
Puducherry.

6.The Senior Superintendent of Police,
L & O, Puducherry.

7.The Principal Secretary to Honourable Chief Minister,
Puducherry.

8.The Director,
Crime Records Bureau,
Puducherry.

9.The Director General of Police,
Puducherry.

10.The Joint Secretary to Government,
Public (law & Order),
Fort Saint George, chennai 9

+1cc to Mr.S.S.Pajaniradja, Advocate, S.R.No.55038,
+1cc to The Public Prosecutor, Advocate, S.R.No. 54621

H.C.P. No. 715 of 2019

MP(CO)
GN(22/07/2019)



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