

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2019

Coram

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

H.C.P. No.997 of 2019

P.Nithya ... Petitioner/Mother of detenue

-vs-

1.Union of India rep. by its Secretary,
Home Department,
New Delhi.

2.The Chief Secretary to Govt. of
Puducherry,
Union of Puducherry,
Chief Secretariat, Puducherry.

3.The District Magistrate cum
Authorized Officer,
Puducherry.

4.The Superintendent of Police
(South), Puducherry.

5.The Inspector of Police,
Mettupalayam Police Station,
Puducherry.

... 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.04/DM/RO/D2/PPASAA/2019 dated 10.04.2019 passed by the third respondent and quash the same and direct the respondents herein to produce the body of the detenu Baskar S/o.Parthasarathy, Hindu, aged about 23 years who is now confined in Central Prison, Kalapet, Puducherry before this Court and set him at liberty.

For Petitioner Mr.R.Thamaraiselvan

For Respondents Mr.S.S.Pajaniradja, CGSC
for R1
Mr.D.Bharatha
Chakravarthy
Public Prosecutor
for R2 to R5

ORDER

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

The petitioner is the mother of the detenu Baskar S/o.Parthasarathy, aged about 23 years. The detenu has been detained by the third respondent by his order in No.04/DM/RO/D2/PPASAA/2019 dated 10.04.2019, holding him to be a "Dangerous Person", as contemplated under sub section (1) 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 Public Prosecutor (Puducherry) appearing for respondents 2 to 5. 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 Additional 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. 04/DM/RO/D2/PPASAA/2019 dated 10.04.2019 passed by the third respondent is set aside. The detenu Baskar S/o.Parthasarathy 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,
Home Department,
New Delhi.

2.The Chief Secretary to Govt. of
Puducherry,
Union of Puducherry,
Chief Secretariat, Puducherry.

3.The District Magistrate cum
Authorized Officer,
Puducherry.

4.The Superintendent of Police
(South), Puducherry.

5.The Inspector of Police,
Mettupalayam Police Station,
Puducherry.

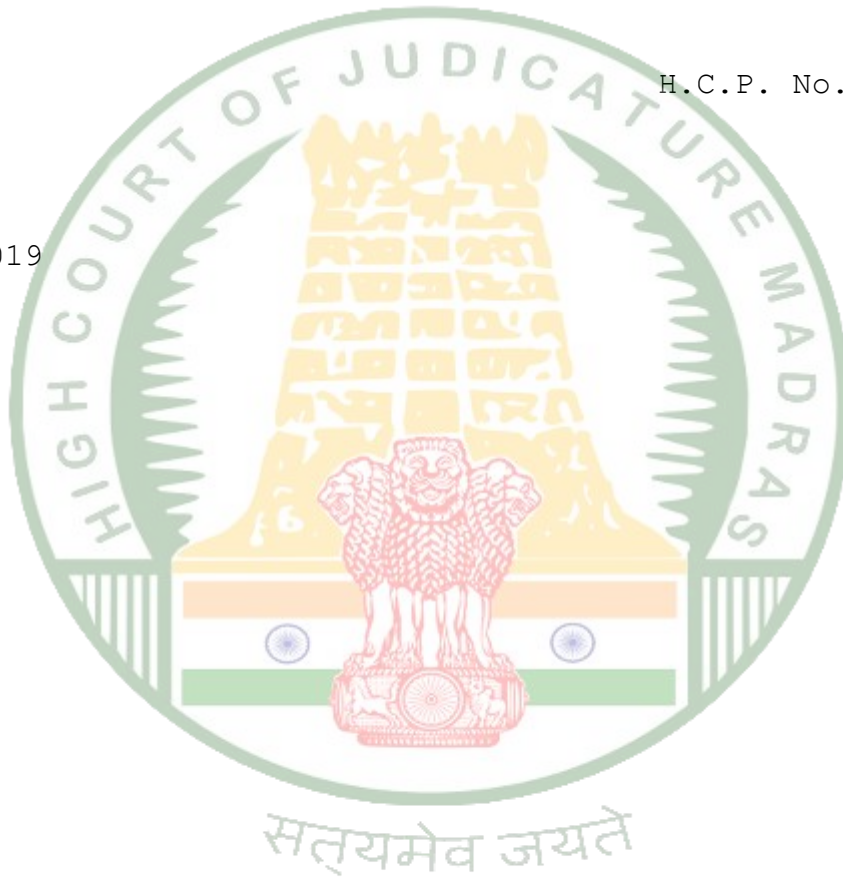
6.The Superintendent,
Central Prison, Kalapet,
Puducherry.

7.The Public Prosecutor,
Puducherry.

+1 cc to Government Pleader sr 64788

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