

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

H.C.P.No.207 of 2020

Velu @ Anandhan

... Petitioner

Vs

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

2.The Secretary to Lieutenant Governor
Rajnivas
Puducherry.

3.The Additional Secretary to Government
Home Department, Chief Secretariat
Gubert Avenue, Puducherry - 605 001.

4.The District Magistrate cum Authorised Officer
Puducherry.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus calling for the records relating to the detention order in No.02/DM/RO/D2/PPASAA/2020 on the file of the 4th respondent dated 12.01.2020 quash the same and direct the respondents to produce the corpus of the detenu Prabu @ Prabakaran, Son of Velu @ Anandhan, who is kept in Central Prison, Kalapet, Puducherry before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.V.Elangovan

For Respondents: Mr.Bharatha Chakravarthy
Public Prosecutor (Pondicherry)

O R D E R
(Order of the court was made by N.KIRUBAKARAN.J.,)

The matter was heard through "Video Conference".

2.The father of the detenu has filed this Petition challenging the detention order passed by the fourth Respondent in No.02/DM/RO/D2/PPASAA/2020 dated 12.01.2020 under Sub Section (2) of Section 3 of the Puducherry Prevention of Anti-Social Activities Act, 2008 (Act No.10 of 2010) read with the order issued by the Home Department, Government of Puduhcherry in G.O.Ms.No.69, dated 10.09.2019, terming him as 'Dangeruous Person' as he has got eight previous cases apart from the ground case registered against him.

3.Heard Mr.V.Elangovan, learned Counsel appearing for the Petitioner and Mr.Bharatha Chakkaravarthy, learned Public Prosecutor (Puducherry) appearing for the Respondents.

4.Though the learned Counsel for the petitioner submitted that representation sent on behalf of the detenu has not been considered and disposed in time, the explanation given by the learned Public Prosecutor would show that representation was received on 28.01.2020 by the detaining authority and the same was disposed on 07.02.2020 by the District Magistrate cum authorised officer and therefore, the representation has been disposed within time. As far as the opinion of the other authorities are concerned with regard to the detention order, the matter was referred to Advisory Board even before the representation was received and after the opinion of the Advisory Board, the representation was disposed of in time. Therefore, the said contention raised by the learned Counsel for the petitioner is rejected.

5.However, the next contention raised by the learned Counsel for the petitioner is appealing. He submitted that in Page No.2, Paragraph No.4 of the detention order, it has been stated that detenu is preparing plans to eliminate the members of his rival group. However, no details have been given by the detaining authority in this regard. As far as this contention is concerned, the learned Public Prosecutor submitted that the details have been given in the proposal sent to the detaining authority.

6.This Court is of the view that if the proposal contains the details, it should have been disclosed to the detenu. Unless it is made known to the detenu, the authorities cannot rely upon the said contention. In the absence of any materials supporting the contentions made in Paragraph No.4 of the

detention order, the detention order is vitiated.

7. Accordingly, the detention order in No.02/DM/RO/D2/PPASAA/2020 on the file of the 4th respondent dated 12.01.2020 is quashed. The detenu viz., Prabu @ Prabakaran, Son of Velu @ Anandhan, who is confined in Central Prison, Kalapet, Puducherry is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

8. On technical grounds only, the detention order has been quashed by this Court. The very purpose of detention is to prevent the detenu from repeating offences and that public safety is ensured. Since this Court has quashed the detention order, in the interest of public and in the interest of justice, this Court is justified in directing the detenu to appear before the jurisdictional Police Station, every Monday at 11.00 A.M., till 11.01.2021. The very purpose of this direction is to ensure that the detenu does not repeat the commission of offence and that the police can also have a watch over the movement of the detenu, even if he is outside the prison.

9. Accordingly, this petition is allowed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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Ministry of Home Affairs
(Department of Internal Security)
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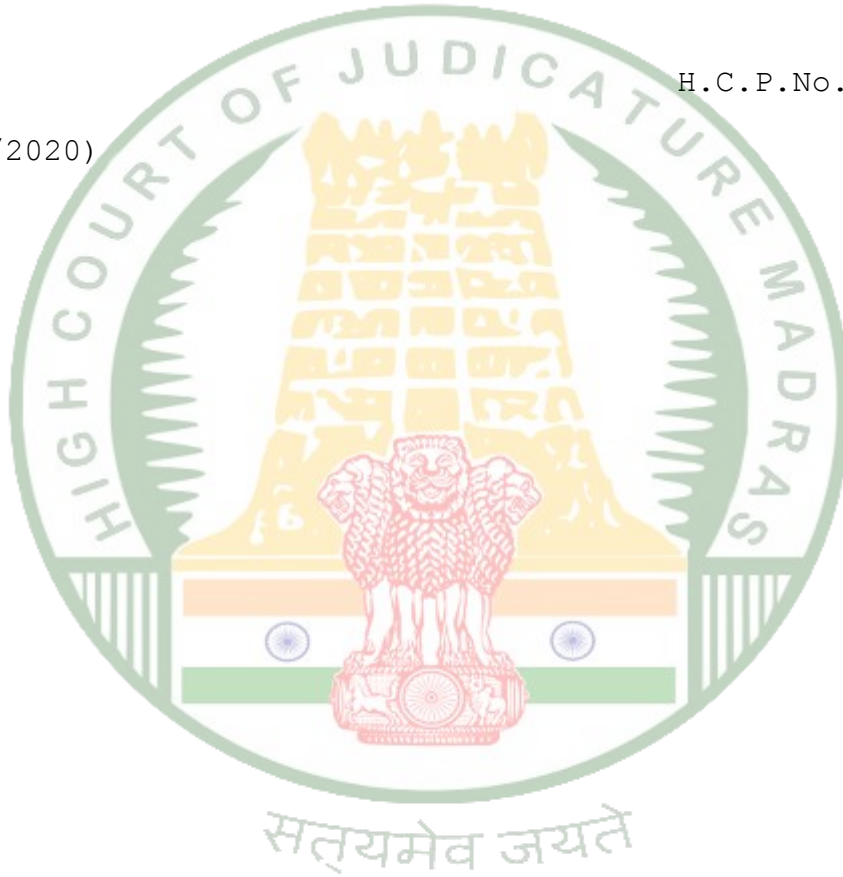
5.The Superintendent,
Central Prison, Kalapet, Puducherry.

6.The Public Prosecutor,
High Court of Madras,
Chennai.

+1 cc to M/s.P.Rajavelayutham, Advocate Sr.No. 30275

H.C.P.No.207 of 2020

SPD (CO)
RMP (29/10/2020)



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