

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice D.KRISHNAKUMAR

H.C.P. No. 836 of 2020

A.Dhanalakshmy

..Petitioner

Vs.

1. The Special Secretary to Government,
Government of Puducherry,
Chief Secretariat, Gubert Avenue,
Puducherry - 605 001.
2. The District Magistrate-Cum-Authorised Officer,
1st Floor, Vazhadhavoor Road,
Kavundanpalayam,
Puducherry - 605 009.
3. The Superintendent of Police,
O/o.The Superintendent of Police,
Puducherry.
4. The Chief Jail Superintendent,
Central Prison, Kalapet, Puducherry.
5. State rep. by
Inspector of Police,
Ariyankuppam Police Station,
Puducherry.

..Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus to call for the records relating to the detention order in No.10/DM/RO/D2/PPASAA/2020, dated 04.03.2020 passed by the second respondent under Section 3 (2) of the Puducherry Prevention of Anti-Social Activities Act, 2008 (Act 10 of 2010.) and quash the same and produce the petitioner's son viz., Sedhu @ Vignesh, S/o.Azhaguvel, aged about 22 years (who is presently undergoing detention in the Central Prison, Kalapet), before this Court and set him at liberty.

For Petitioner : Mr.S.N.Arun Kumar
For Respondents : Mr.D.Bharatha Chakravarthy,
: Public Prosecutor
(Pondicherry)

ORDER

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

The petitioner is the mother of Sedhu @ Vignesh, S/o.Azhaguvel, aged about 22 years, who is the detenu. The detenu has been detained by the second respondent by his order in No.10/DM/RO/D2/PPASAA/2020, dated 04.03.2020, holding him to be a "Dangerous Person", as contemplated under the provisions of 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 and the learned Public Prosecutor (Puducherry) appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3.Though several grounds have been raised, learned counsel for the petitioner mainly focused his arguments on the ground that the bail application relied upon by the detaining authority in para 5 of the detention order has not been furnished to the detenu, which caused great prejudice to the detenu and he has been prevented from making an effective representation for consideration of the authorities concerned. Further, though the detenu was arrested on 09.11.2019, the detention order was passed on 04.03.2020, after a considerable delay of more than three months. Therefore, the impugned order of detention is vitiated in law.

4.A perusal of the booklet would go to show that the bail application relied upon by the detaining authority in para 5 of the detention order has not been enclosed in the booklet furnished to the detenu. Further, there is no satisfactory explanation offered by the Detaining Authority for the abnormal delay in passing the order of detention. Therefore, non-furnishing of the above materials would obviously deprive of his opportunity to make effective representation. Hence we are of the opinion that the detention order is liable to be quashed on these grounds.

5.Accordingly, the impugned detention order passed by the second respondent, detaining the detenu, namely, Sedhu @

Vignesh, S/o.Azhaguvel, aged about 22 years, made in No.10/DM/RO/D2/PPASAA/2020, dated 04.03.2020 is quashed and the Habeas Corpus Petition is allowed. The above named detenu, who is detained in the Central Prison, Kalapet, Puducherry is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Special Secretary to Government,
Government of Puducherry,
Chief Secretariat, Gubert Avenue,
Puducherry - 605 001.
2. The District Magistrate-Cum-Authorised Officer,
1st Floor, Vazhadvavoor Road,
Kavundanpalayam,
Puducherry - 605 009.
3. The Superintendent of Police,
O/o.The Superintendent of Police,
Puducherry.
4. The Chief Jail Superintendent,
Central Prison, Kalapet, Puducherry.
5. The Inspector of Police,
Ariyankuppam Police Station,
Puducherry.
6. The Joint Secretary to Government,
Public (Law & Order)
Fort Saint George, Ch-9.
7. The Public Prosecutor,
Puducherry.

H.C.P. No.836 of 2020

KK(CO)
RV(02/12/2020)