



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.09.2020

CORAM:

**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**

H.C.P. (MD) No.512 of 2020

S.Alamelumangai ... Petitioner/Sister of the detenue
-vs-

- 1.The Principal Secretary to Government
Home, Prohibition and Excise (XVI) Department
Secretariat, Chennai-9
- 2.The District Magistrate and District Collector
Pudukkottai District
Pudukkottai
- 3.The Superintendent of Police
Pudukkottai District
Pudukkottai
- 4.The Superintendent
Central Prison
Trichirappalli-620 020
- 5.The Inspector of Police
Keeranur Police Station
Pudukkottai District

... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus to call for the records on the file of the second respondent in detention order P.D.O.No.54 of 2020, dated 18.06.2020 and direct the respondents to produce the detenue namely Jeyanthi, wife of Rajkumar, female, 40 years, now confined in Special Prison for Women, Trichy, before this Court to quash and set aside the same and set at her liberty.

For Petitioner: Mr.K.Kumaravel

For Respondents: Mr.V.Neelakandan
Additional Public Prosecutor



O R D E R

(Order of the Court was made by K.KALYANASUNDARAM, J.)

This habeas corpus petition has been filed by the sister of the detainee, namely, Jeyanthi, wife of Rajkumar, 40 years, against the detention order passed by the second respondent, in P.D.O.No.54/2020, dated 18.06.2020, branding her as "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act, 14 of 1982.

2. It is submitted by Mr.K.Kumaravel, learned counsel for the petitioner that though the detention order has been assailed on several grounds, it is liable to be set aside on the ground that there was no proper intimation of arrest of the detainee either to her family members or her relatives. According to the learned counsel for the petitioner, the non-intimation of arrest would seriously affect the valuable rights of the detainee to make effective representation to the Authorities concerned for revocation of the detention order.

3. Per contra, Mr.V.Neelakandan, learned Additional Public Prosecutor appearing for the respondents, while reiterating the counter affidavit filed by the second respondent, submitted that the detention order has been passed by the Detaining Authority after satisfying with the materials placed by the Sponsoring Authority and there is no illegality or irregularity in the impugned detention order. Furthermore, the intimation of arrest of the detainee was given through SMS and hence, the rights of the detainee has not been affected in any manner.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. A perusal of the arrest intimation form available at Page No.171 of the booklet shows that the arrest of the detainee in the ground case was intimated through SMS to the Cell No.6382729052. However, there is no material to show that the said Cell Number belongs to the family members of the detainee or her relatives and the text of the message is also not found place in the booklet. This Court, following the decision of the Honourable Apex Court in the case of ***D.K.Basu vs. State of West Bengal***, reported in ***AIR (1997) SC 610***, in several cases, has consistently held that if there is no proper intimation of arrest of the detenu either to his family members or his relatives, his valuable rights would seriously prejudiced on the sense that they will not have the opportunity to make effective representation to the Authority concerned in time for revocation of the detention order.

6. In the light of the above facts and circumstances, we are convinced that the impugned detention order would not stand to the scrutiny of this Court and the same is, therefore, liable to be set aside.



7. In fine, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in P.D.O.No.54 of 2020, dated 18.06.2020, is set aside. Consequently, the detinue, namely, Jeyanthi, wife of Rajkumar, 40 years, who is now detained at the Special Prison for Women, Trichy, is directed to be released forthwith unless her presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

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To:

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Secretariat, Chennai-9.
- 2.The District Magistrate and District Collector,
Pudukkottai District,
Pudukkottai.
- 3.The Superintendent of Police,
Pudukkottai District,
Pudukkottai.
- 4.The Superintendent,
Central Prison,
Trichirappalli-620 020.
- 5.The Joint Secretary to Government,
Public(Law & Order) Department,
Fort St.George, Chennai.

<https://hcservices.ecourts.gov.in/hcservices/>



6.The Inspector of Police,
Keeranur Police Station,
Pudukkottai District.

7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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NR (07.10.2020) 4P 8C