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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2021

Coram

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

H.C.P.No.618 of 2021

Gayathri
W/o.Vivekananthan @ Vivek

.. Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600009.

2.The District Collector and District
Magistrate,
Tiruvannamalai District,
Tiruvannamalai.

3.The Superintendent of Police,
Tiruvannamalai District,
Tiruvannamalai.

4.The Superintendent of Prison,
Central Prison,
Vellore.

5.The Inspector of Police,
Tiruvannamalai East Police Station,
Tiruvannamalai,
Tiruvannamalai District.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a writ of Habeas Corpus calling for the entire records relating to the impugned order of detention passed by the second respondent in D.O.No.05/2021-C2 dated 27.01.2021 and set aside the same, consequently, direct



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the respondents to produce the detenu Vivekanandan @ Vivek S/o.Durai, aged 30 years, now confined at Central Prison, Vellore, before this Court and set him at liberty forthwith.

For Petitioner : Mr.B.Jawahar
For Respondents: Mr.R.Muniyapparaj
Government Advocate [Crl.side]

ORDER

[Order of the Court was made by P.N.PRAKASH, J]

In this case, this Court vide order dated 23.06.2021 in Crl.M.P.No.6425 of 2021, has fixed the date for final disposal of the main case and hence, the same is taken up for hearing today.

2. The petitioner is the wife of the detenu viz., Vivekanandan @ Vivek S/o.Durai, aged 30 years. The detenu has been detained by the second respondent by his order in D.O.No.05/2021-C2 dated 27.01.2021, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

3. We have heard the learned counsel appearing for the petitioner and the learned Government Advocate [Crl.side] appearing for the respondents. We have also perused the records produced by the Detaining Authority.

4. Though several grounds have been raised, learned counsel for the petitioner mainly focused his arguments on the ground that in the arrest memo (Page No.213), Column No.8 (seized items) is empty whereas in the seizure mahazar (Page No.192), it is stated that a Hero Honda Splendor Plus vehicle has been seized. The above variation caused great prejudice to the detenu and he has been prevented from making an effective representation for consideration of the authorities concerned. Therefore, the impugned order of detention is vitiated in law.

5. Learned Government Advocate [Crl.side] strongly opposed the habeas corpus petition by filing his counter.

6. A perusal of the booklet would go to show that there is variation in the arrest intimation and seizure mahazar with regard to seizure of articles, which would obviously deprive the petitioner's opportunity to make effective representation and hence, we are of the opinion that the detention order is liable



to be quashed on this ground.

In the result, the Habeas Corpus Petition is allowed and the order of detention in D.O.No.05/2021-C2 dated 27.01.2021 passed by the second respondent is set aside. The detenu, viz., Vivekanandan @ Vivek S/o.Durai, aged 30 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gm
To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600009.
- 2.The District Collector and District Magistrate,
Tiruvannamalai District,
Tiruvannamalai.
- 3.The Superintendent of Police,
Tiruvannamalai District,
Tiruvannamalai.
- 4.The Superintendent of Prison,
Central Prison,
Vellore.
- 5.The Inspector of Police,
Tiruvannamalai East Police Station,
Tiruvannamalai,
Tiruvannamalai District.
- 6.The Joint Secretary to Government,
Public (Law and order) Fort.St.George, Chennai 9.
- 7.The Public Prosecutor,
High Court, Madras.

H.C.P.No.618 of 2021

AJB(CO)
A.SK(14.07.2021)