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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2021

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MRS.JUSTICE S.SRIMATHY

H.C.P.NO.664 OF 2021

Lavanya

S/o.Manivannan @ Kuttiyappan @ Moses

... Petitioner

.Vs.

1. The State of Tamil Nadu,
Represented by the Secretary to Government,
Home, Prohibition & Excise Department,
Fort St.George, Chennai - 600 009.

2. The Commissioner of Police,
Salem Police, Salem District.

3. The Superintendent of Prison,
Central Prison, Coimbatore,
Coimbatore District.

4. The Inspector of Police,
Kitchipalayam Police Station,
Salem District.

... Respondents

PRAYER:- Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records pertaining to the order of detention passed by the second respondent in C.M.P.No.26/Goonda/Salem City/2021 dated 26.03.2021 against the petitioner's son by name Manivannan @ Kuttiyappan @ Moses s/o.Soori @ Sooriyamoorthy, aged 28 years, before this Court, who is now confined at Central Prison, Coimbatore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.M.Rajkumar

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor



ORDER

[Order of the Court was made by S.SRIMATHY, J]

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The petitioner is the wife of the detenu viz., Manivannan @ Kuttiyappan @ Moses s/o.Soori @ Sooriyamoorthy, aged 28 years. The detenu has been detained by the second respondent by his order in C.M.P.No.26/Goonda/Salem City/2021 dated 26.03.2021, holding him to be a "Goonda", as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982. 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 Government Advocate [Crl.side] appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Learned counsel for petitioner submits that page Nos.303 and 304 i.e. dismissal order in bail petition of the co-detenu, in the booklet furnished to the detenu are illegible. Learned counsel further submits that the same adversely has affected his right of making an effective representation.

4. When the documents furnished to the detenu are illegible, opportunity of clear understanding and making effective representation in keeping with Article 22(5) of the Constitution of India on such understanding is lost and the detenu is deprived thereof. This would vitiate the order of detention. For the aforesaid reasons, this Court would allow the present petition.

In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.26/Goonda/Salem City/2021 dated 26.03.2021 passed by the second respondent is set aside. The detenu, viz.,Manivannan @ Kuttiyappan @ Moses s/o.Soori @ Sooriyamoorthy, aged 28 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gm



To

1. The Secretary to Government,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai - 600 009.

2. The Commissioner of Police,
Salem Police,
Salem District.

3. The Superintendent of Prison,
Central Prison, Coimbatore,
Coimbatore District.

4. The Inspector of Police,
Kitchipalayam Police Station,
Salem District.

5. The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.

6. The Public Prosecutor,
High Court, Madras.

H.C.P.NO.664 OF 2021

GPL (CO)
PBS/10/11/2021