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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2021

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MS.JUSTICE R.N.MANJULA

H.C.P.NO.647 OF 2021

Sundar @ Sundaravarathan

.. Petitioner

Vs.

1. The Secretary to Government,
Government of India,
Ministry of Home Affairs,
(Department of Internal Security),
North Block, New Delhi - 110 001.
2. The Additional Secretary to Government,
(Home) Government of Puducherry,
Chief Secretariat, Gubert Avenue,
Puducherry - 605 001.
3. The District Magistrate-cum-Authorised Officer,
1st Floor, Vazhadhavor Road,
Pettayanchathiram, Puducherry- 605 009.
4. The Superintendent of Police, (North),
Puducherry.
5. The Chief Superintendent of Jail,
Central Prison, Kalapet, Puducherry.
6. The Inspector of Police,
Reddiyarpalayam 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 proceedings of the 3rd respondent herein in No.06/DM/RO/D2/PPASAA/2021 dated 17.03.2021 and quash the same and produce the detenu Sundar @ Sundaravarathan, aged 32 years, now detained at the Central Prison, Kalapet, Puducherry, before this Court and set him at liberty.



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For Petitioner : Mr.C.Mohana Krishnan

For Respondents : Mr.V.Balamurugane
Additional Public
Prosecutor (Puducherry)

ORDER

[Made by P.N.PRAKASH, J.]

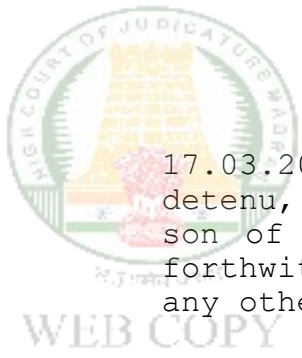
The petitioner is the detenu Sundar @ Sundaravarathan, aged about 32 years, son of Veerakesavan @ Dhanamoorthy. The detenu has been detained by the third respondent by his order in Memo No.06/DM/RO/D2/PPASAA/2021 dated 17.03.2021, holding him to be a "Dangerous Person", as contemplated under Section 3(1) of the 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 Additional Public Prosecutor (Puducherry) appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though many grounds have been raised in the petition, learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention. According to the learned counsel appearing for the petitioner, in the impugned detention order, the Detaining Authority stated that the five previous cases against the detenu are under trial, whereas, only in three cases charge sheets have been filed pending trial and in two cases, though charge sheets have been filed, the same have not been taken on file by the jurisdictional Court. Therefore, the impugned order of detention is vitiated in law.

4. A perusal of the booklet would go to show that in the impugned detention order, the Detaining Authority stated that the five previous cases against the detenu are under trial, whereas, only in three cases charge sheets have been filed pending trial and in two cases, though charge sheets have been filed, the same have not been taken on file by the jurisdictional Court, which shows non-application of mind on the part of the detaining authority in passing the order of detention. The impugned detention order is therefore liable to be quashed.

In the result, the Habeas Corpus Petition is allowed and the order of detention in Memo No.06/DM/RO/D2/PPASAA/2021 dated



17.03.2021, passed by the third respondent is set aside. The detenu, viz., Sundar @ Sundaravarathan, aged about 32 years, son of Veerakesavan @ Dhanamoorthy, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nsd
To

1. The Secretary to Government,
Government of India,
Ministry of Home Affairs,
(Department of Internal Security),
North Block, New Delhi - 110 001.
2. The Additional Secretary to Government,
(Home) Government of Puducherry,
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3. The District Magistrate-cum-Authorised Officer,
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4. The Superintendent of Police, (North), Puducherry.
5. The Chief Superintendent of Jail,
Central Prison, Kalapet, Puducherry.
6. The Inspector of Police,
Reddiarpalayam Police Station, Puducherry.
7. The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.
8. The Public Prosecutor, High Court, Madras.

+2ccs to Mr.C.Mohana Krishnan, Advocate, S.R.No.51868 & 51812

H.C.P.No.647 of 2021

AK II (CO)
PM/11/10/2021