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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2021

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

H.C.P.NO.692 OF 2021

S.Palaniammal

.. Petitioner

.Vs.

1. The Lieutenant Governor,
Rajnivas,
Puducherry.
2. The Special Secretary to Government
Home Department,
Government of Puducherry,
Chief Secretariat,
Gubert Avenue,
Puducherry-605 001.
3. The District Magistrate
-cum-Authorized Officer,
1st Floor, Vazhadvavoor Road,
Kavundanpalayam,
Puducherry - 605 009.
4. The Chief Superintendent of Jail,
Central Prison, Kalapet,
Puducherry.
5. The Station House Officer,
Muthialpettai Police Station,
Puducherry.

.. Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records in No.13/DM/RO/D2/PPASAA/2021 dated 05.04.2021 on the file of the 3rd respondent and quash the same as illegal and consequently direct the respondents to produce the petitioner's son Vengadesan, S/o.Mohan, aged about 33 years, who now confined in



the Central Prison, Kalapet, Puducherry, before this Court and set him at liberty.

For Petitioner : Mr.K.Gandhi Kumar

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

ORDER

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

The petitioner is the mother of the detenu Vengadesan, S/o.Mohan, aged about 33 years. The detenu has been detained by the third respondent by his order in Memo No.13/DM/RO/D2/PPASAA/2021 dated 05.04.2021, 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 for the petitioner, no materials were placed before the detaining authority as to whether the detenu was in remand or otherwise at the time of clamping the detention order and the subjective satisfaction arrived at by the detaining authority is not proper. Therefore, the impugned order of detention is vitiated in law.

4. A perusal of the booklet would go to show that no materials were placed before the detaining authority as to whether the detenu was in remand or otherwise at the time of clamping the detention order, 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.13/DM/RO/D2/PPASAA/2021 dated 05.04.2021, passed by the third respondent is set aside. The detenu, viz., Vengadesan, S/o.Mohan, aged about 33 years, is



directed to be released forthwith unless his detention is required in connection with any other case.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

nsd

To

1. The Lieutenant Governor,
Rajnivas,
Puducherry.
2. The Special Secretary to Government
Home Department,
Government of Puducherry,
Chief Secretariat,
Gubert Avenue,
Puducherry-605 001.
3. The District Magistrate
-cum-Authorized Officer,
1st Floor, Vazhadvavoor Road,
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Puducherry - 605 009.
4. The Chief Superintendent of Jail,
Central Prison, Kalapet, Puducherry.
5. The Station House Officer,
Muthialpettai Police Station,
Puducherry.
6. The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.
7. The Public Prosecutor,
High Court, Madras.

H.C.P.No.692 of 2021

RLD(CO)
PM/17/11/2021