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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.705 OF 2021

Jayanthi

.. Petitioner

Vs.

1. The Secretary to Government
Department of Home,
Secretariat, Government of Puducherry,
Puducherry.
2. The District Magistrate
-cum-Authorized Officer,
District Collectorate, Pettaiyanchathiram,
Valadavur Road,
Puducherry - 605 009.
3. The Senior Superintendent of Police
(L & O) [East],
Office of the Police Department in
Puducherry,
Goubert Ave, White Town,
Puducherry - 605 001.
4. The Station House Officer,
Kalapet Police Station,
Puducherry.
5. The Chief Superintendent of Jail,
Central Prison, Kalapet,
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 impugned order in No.03/DM/RO/D2/PPASAA/2021 dated 16.03.2021 on the file of the second respondent herein and set aside the same as as illegal and direct the respondents to produce the detenu Sugan @ Pradeep, son of Periyasamy, aged about 27 years, now confined at the Central Prison, Kalapet, Puducherry, before this Court and set him at liberty.

For Petitioner : Mr.Ilayaraja Kandasamy

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

ORDER

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

The petitioner is the wife of the detenu Sugan @ Pradeep, son of Periyasamy, aged about 27 years. The detenu has been detained by the second respondent by his order in Memo No.03/DM/RO/D2/PPASAA/2021 dated 16.03.2021, 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 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.



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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.03/DM/R0/D2/PPASAA/2021 dated 16.03.2021, passed by the second respondent is set aside. The detenu, viz., Sugan @ Pradeep, son of Periyasamy, aged about 27 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

nsd

To

1. The Secretary to Government
Department of Home,
Secretariat, Government of Puducherry,
Puducherry.
2. The District Magistrate
-cum-Authorized Officer,
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4. The Station House Officer,
Kalapet Police Station,
Puducherry.

5. The Chief Superintendent of Jail,
Central Prison, Kalapet,
Puducherry.

6. The Public Prosecutor (Pondicherry),
High Court, Madras.

H.C.P.No.705 of 2021

PPA(CO)
RLP(18/11/2021)