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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2021

Coram

The Honourable Mr. Justice P.N.PRAKASH
and
The Honourable Mrs. Justice S.SRIMATHY

H.C.P.No.704 of 2021

Kasthuri .. Petitioner/Mother of the Detenue
Vs.

- 1.The Chief Secretary to Government
of Puducherry,
Union of Puducherry,
Chief Secretariat,
Puducherry.
- 2.The Secretary to Lieutenant Governor,
Rajnivas,
Puducherry.
- 3.The District Magistrate
-cum-Authorized Officer,
Office of the District Magistrate,
1st Floor, Vazhadvavoor Road,
Kavundanpalayam,
Puducherry - 605 009.
- 4.The Superintendent of Police, (North),
Puducherry.
- 5.The Chief Superintendent of Jail,
Central Prison, Kalapet,
Puducherry.
- 6.The Station House Officer,
Sedarapet Police Station,
Puducherry.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to calling for the records relating to the detention order in No.04/DM/RO/D2/PPASAA/2021, dated 17.03.2021 passed by the 3rd respondent under the Puducherry Prevention of Anti-Social Activities Act, 2008 (Act 10 of 2010) and set aside the same and



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direct the respondents to produce the petitioner's son Kuralarasan @ Kural, S/o.Gengan, aged about 22 years, the detenu, now confined in the Central Prison, Kalapet, Puducherry, before this Court and set the petitioner's son Kuralarasan @ Kural, S/o.Gengan, aged about 22 years, the detenu herein at liberty.

For Petitioner : Mr.U.Yuvaraj

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

ORDER

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

The petitioner is the mother of the detenu Kuralarasan @ Kural, S/o.Gengan, aged about 22 years. The detenu has been detained by the third respondent by his order in Memo No.04/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 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.04/DM/RO/D2/PPASAA/2021 dated 17.03.2021, passed by the third respondent is set aside. The detenu, viz., Kuralarasan @ Kural, S/o.Gengan, aged about 22 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

nsd

To

- 1.The Chief Secretary to Government
of Puducherry,
Union of Puducherry,
Chief Secretariat,
Puducherry.
- 2.The Secretary to Lieutenant Governor,
Rajnivas,
Puducherry.
- 3.The District Magistrate
-cum-Authorized Officer,
Office of the District Magistrate,
1st Floor, Vazhadvavoor Road,
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Puducherry - 605 009.
- 4.The Superintendent of Police, (North),
Puducherry.
- 5.The Chief Superintendent of Jail,
Central Prison, Kalapet,
Puducherry.
- 6.The Station House Officer,
Sedarapet Police Station,
Puducherry.
- 7.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.



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

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CB(01/11/2021)