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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2021

CORAM

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

H.C.P.NO.820 OF 2021

Kokila

... Petitioner

.Vs.

1. The State of Tamil Nadu,
Represented by the Additional Chief
Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai Police,
Chennai - 600 007.
3. The Inspector of Police,
Central Crime Branch,
O/o.Police Commissioner Office,
Chennai.
4. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai - 600 066.

... Respondents

PRAYER:-

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 impugned order of detention passed by the 2nd respondent in No.116/BCDFGISSSV/2021 dated 28.04.2021 detaining the detenu under Section 2(bb) of the Tamil Nadu Act 14 of 1982, as a "Cyber Law Offender" and quash the same and direct the respondents to produce the detenu Kamalahasan, son of Sampath, aged about 37 years, who is detained at the Central Prison, Puzhal, Chennai, before this Court and set him at liberty.



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For Petitioner : Mr.T.Kishore Kumar
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

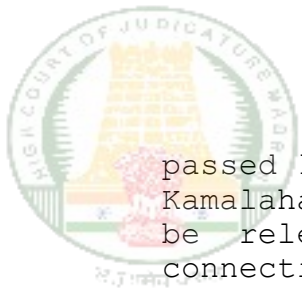
The petitioner is the wife of the detenu Kamalahasan, son of Sampath, aged about 37 years. The detenu has been detained by the second respondent by his order in No.116/BCDFGISSSV/2021 dated 28.04.2021, holding him to be a "Cyber Law Offender", as contemplated under Section 2(bb) of Tamil Nadu Act 14 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 Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that there is gross violation of procedural safeguards, which would vitiate the detention. The learned counsel, by placing authorities, submitted that the representation made by the petitioner was not considered on time and there was an inordinate and unexplained delay.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. He would submit that though there was delay in considering the representation, on that score alone, the impugned detention order cannot be quashed. According to the learned Additional Public Prosecutor, no prejudice has been caused to the detenu and thus, there is no violation of the fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India.

5. The Detention Order in question was passed on 28.04.2021. The petitioner made a representation on 09.05.2021. Thereafter, remarks were called for by the Government from the Detaining Authority on 17.05.2021. The remarks were duly



passed by the second respondent is set aside. The detenu, viz., Kamalahasan, son of Sampath, aged about 37 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 VIII)

//True Copy//

Sub Assistant Registrar

nsd

To

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai Police,
Chennai - 600 007.
3. The Inspector of Police,
Central Crime Branch,
O/o.Police Commissioner Office,
Chennai.
4. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai - 600 066.
5. The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.
6. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.T.Kishore Kumar, Advocate, S.R.No.57002

H.C.P.NO.820 OF 2021

PMK(CO)
PBS/10/11/2021