



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2021

CORAM:

**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE G.ILANGO VAN**

H.C.P. (MD) No.280 of 2021

Parameshwari ... Petitioner/Mother of the Detenue

-vs-

- 1.State of Tamil Nadu, rep.by
The Additional Chief Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai-600 009
- 2.The District Collector and
District Magistrate
O/o.The District Collector and
District Magistrate
Nagapattinam District
Nagapattinam
- 3.The Superintendent
Central Prison
Tiruchirappalli ... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus calling for the entire records in detention order passed in C.O.C.No.58/2020, dated 18.11.2020, on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's son namely Mahakumar, son of Gunasekaran, male, aged 21 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.Prabhu.K.A.S.

For Respondents : Mr.K.Dinesh Babu
Additional Public Prosecutor



O R D E R

(Order of the Court was made by K.KALYANASUNDARAM, J.)

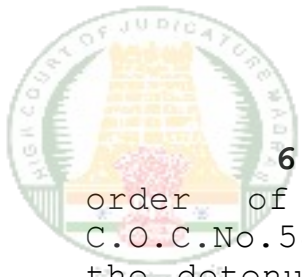
This habeas corpus petition has been filed by the mother of the detenu, namely, Mahakumar, son of Gunasekaran, aged about 21 years, challenging the order of detention passed by the second respondent in C.O.C.No.58/2020, dated 18.11.2020, branding him as "Goonda" as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982 (hereinafter, referred to as "the Act").

2. Mr.K.A.S.Prabhu, learned counsel for the petitioner would argue that though the impugned detention order has been challenged on many grounds, the detenu is entitled to succeed on the sole ground of violation of Section 8 of the Act. It is the submission of the learned counsel for the petitioner that the detenu was clamped with the detention order by the second respondent on 18.11.2020. But, the material documents and the booklet were served to him only after a lapse of nearly ten days i.e. on 29.11.2020, which would vitiate the impugned order of detention.

3. Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor, on instructions, would submit that the detention order has been passed by the second respondent on cogent and relevant materials furnished by the Sponsoring Authority and also considering the gravity of the offence. According to the learned Additional Public Prosecutor, there is no illegality or infirmity in the order of detention passed by the second respondent and hence, the habeas corpus petition is liable to be dismissed.

4. Heard the learned counsel on either side and perused the materials available on record.

5. In the case on hand, it is seen from the records that the detention order was passed on 18.11.2020, however, as per the typed set filed by the petitioner, the relied on documents have been supplied to the detenu only on 29.11.2020. Section 8 of the Act mandates serving of the booklet and other relevant documents on the detenu within a period of five days from the date of detention. Since there was a delay of more than five days in furnishing the relied on documents to the detenu, we are of the opinion that the impugned order of detention is liable to be set aside on the sole ground of delay in furnishing the relied on documents to the detenu.



6. In fine, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in C.O.C.No.58/2020, dated 18.11.2020, is set aside. Consequently, the detenu, namely, Mahakumar, son of Gunasekaran, aged about 21 years, who is now detained at Central Prison, Tiruchirappalli, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar(P & A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

krk

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To:

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Secretariat, Chennai-600 009.
- 2.The District Collector and
District Magistrate,
O/o.The District Collector and
District Magistrate,
Nagapattinam District, Nagapattinam.
- 3.The Superintendent,
Central Prison, Tiruchirappalli.
4. The Joint Secretary to Government,
Public (Law & Order), Fort Saint George, Chennai



5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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25.03.2021

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