



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2021

CORAM:

WEB COPY

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

H.C.P. (MD) No.420 of 2021

Lakshmi ... Petitioner/Mother of the Detenue

-vs-

1.The Superintendent of Police,
Office of the Superintendent of Police,
Madurai District,
Madurai.

2.The Superintendent of Police,
Office of the Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

3.The Inspector of Police,
Perungudi Police Station,
Perungudi,
Madurai.

4.The Inspector of Police,
Kamuthi Police Station,
Kamuthi,
Ramanathapuram District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus, directing the respondents to produce the body or peron of the detenu by name Subash @ Bose, son of Mayakrishnan, aged 18 years before this Court and set him at liberty.

For Petitioner : Mr.R.Venkatesan
for Mr.A.P.Balasubramani

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 for a direction to the respondents to produce the petitioner's son, namely, Subash @ Bose, aged about 18 years, before this Court and set him at liberty.

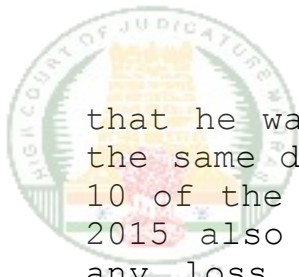
2.Mr.R.Venkatesan, learned counsel appearing for the petitioner would urge that on 05.03.2021 at about 3.00 a.m., 7 persons entered into the house of the petitioner and introduced themselves as police personnel and taken the petitioner's son, the detenu herein, for enquiry. Subsequently, when the petitioner went to the third respondent police station, they did not give proper reply hence, she sent a representation to the respondents to hand over the custody of the detenu. Since, no effective steps were taken, the present hasbeas corpus petition has been filed.

3. Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the respondents would state that the petitioner is one among the accused in Cr.No.128 of 2021, which was registered by the Kamuthi Police Station for the offences under Sections 8 (c), 20(b)(ii)(C) of NDPS Act and Section 27(1) of Arms Act. It is further submitted that the accused, involved in that case, were secured by the respondent police on 06.03.2021 and remanded to judicial custody. Since the detenu was a juvenile, he was produced before the Juvenile Justice Board and he is lodged at Observation Home, Madurai.

4. In reply, the learned counsel for the petitioner would argue that the petitioner's son was taken by the respondent police on 05.03.2021 and on the same day, this habeas corpus petition has been filed, hence the case of the prosecution that he was arrested on 06.03.2021 cannot be accepted. He further added that the directions issued in the case of **D.K.Basu vs. State of West Bengal**, reported in **AIR (1997) SC 610** has not been scrupulously followed by the respondent police and there is a violation of Section 10 of Juvenile Justice (Care and Protection of Children) Act, 2015.

5. Heard Mr.R.Venkatesan, learned counsel appearing for the petitioner and Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the respondents and perused the materials available on record.

6. Though it is contended by the learned counsel for the petitioner that the detenu was secured by the respondent police on 05.03.2021, records produced by the respondents would reveal



that he was secured by the respondent police on 06.03.2021 and on the same day, he was produced before the concerned forum. Section 10 of the Juvenile Justice (Care and Protection of Children) Act, 2015 also prescribes 24 hours time to produce the child without any loss of time before the board. Even if the case of the petitioner that the detenu was secured on 05.03.2021, admittedly, he was produced before the juvenile board within a period of 24 hours i.e., on 06.03.2021. If there is any other violation, it has to be agitated before the appropriate forum.

7. In the light of the above fact, this habeas corpus petition fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar(CS-II)

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/ /2021

Sub Assistant Registrar(CS)

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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 Superintendent of Police,
Office of the Superintendent of Police,
Madurai District,
Madurai.
- 2.The Superintendent of Police,
Office of the Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.
- 3.The Inspector of Police,
Perungudi Police Station,
Perungudi, Madurai.



4.The Inspector of Police,
Kamuthi Police Station,
Kamuthi,
Ramanathapuram District.

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

H.C.P. (MD) No.420 of 2021
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