



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

and

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P. (MD) No.426 of 2021

WEB COPY

Malaiyalagu ... Petitioner/ Mother of the Detenu
vs.

1. State of Tamil Nadu
Represented by its Additional Chief Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.
3. The Superintendent,
Central Prison,
Palayamkottai,
Tirunelveli.

... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the records pertaining to the proceedings of the second respondent made in his proceedings in Detention Order in H.S.(M) Confdl.No.09/2021, dated 12.01.2021 and quash the same and set the petitioner's son by name Kamalraj, aged about 26 years at his liberty from Central Prison, Palayamkottai, Tirunelveli/ third respondent.

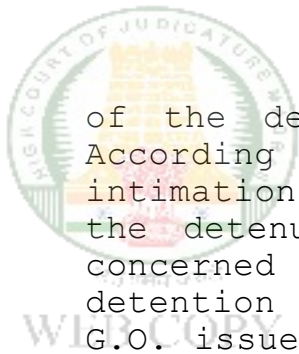
For Petitioner : Mr.V.M.Jegadeesha Pandian
For Respondents : Mr.S.Ravi
Additional Public Prosecutor

O R D E R

(Order of the Court was made by **V.BHARATHIDASAN,J.**)

This habeas corpus petition has been filed by the mother of the detenu, namely, Kamalraj, S/o.Vel, aged about 26 years, against the detention order passed by the second respondent, in H.S.(M) Confdl No.09/2021, dated 12.01.2021, branding him as 'Sand Offender' as contemplated under Section 2(gg) of Tamil Nadu Act, 14 of 1982.

2. Mr.V.M.Jegadeesha Pandian, learned counsel appearing for the petitioner would submit that there was no intimation of arrest



of the detenu either to his family members or his relatives. According to the learned counsel for the petitioner, the non-intimation of arrest would seriously affect the valuable rights of the detenu to make effective representation to the Authorities concerned for revocation of the detention order. Further, the detention order was passed against the detenu on the basis of the G.O. issued by the Government in G.O.(D).No.293, Home, Prohibition and Excise (XVI) Department, dated 15.10.2021. But, the said G.O., was not annexed in the booklet.

3. Mr.S.Ravi, learned Additional Public Prosecutor appearing for the respondents, on instructions, submitted that after satisfying with the materials placed by the Sponsoring Authority, the Detaining Authority has passed the detention order and there is no illegality or infirmity in the detention order and hence, prayed for dismissal of the habeas corpus petition.

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

5. In the case on hand, the detenu was arrested on 30.08.2020, in connection with the case in Crime No.338 of 2020, on the file of Muruappanadu Police Station and remanded to judicial custody. But the remand order was not furnished to the petitioner. Though the detenu was arrested as early as on 30.10.2020, the detention order was passed only on 12.01.2021. Further, the Detaining Authority has observed in the detention order that he detained the detenu in exercise of power conferred by the order issued by the Government in G.O.(D).No.293, Home, Prohibition and Excise (XVI) Department, dated 15.10.2020. But the said G.O., was not annexed in the booklet. In the above circumstances, in our considered view, the detention order is liable to be set aside.

6. In fine, the Habeas Corpus Petition is allowed. The detention order made in H.S.(M) Confdl. No.09/2021, dated 12.01.2021, passed by the second respondent, is set aside. Consequently, the detenu, namely, Kamalraj, S/o.Vel, aged about 26 years, who is now detained at Central Prison, Palayamkottai, Tirunelveli is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS III)

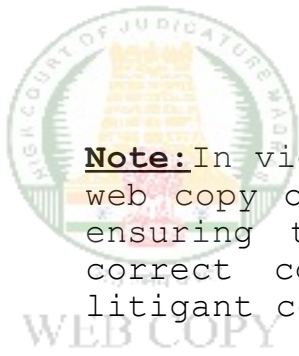
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/ /2021

Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



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,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The Joint Secretary to Government,
State of Tamil Nadu,
Public (Law & Order),
Fort St.George,
Chennai.
- 3.The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.
- 4.The Superintendent,
Central Prison,
Palayamkottai,
Tirunelveli.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.426 of 2021
01.11.2021

SR(CO)
RS/SKN (19.11.2021) 3P 6C