



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

and

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

H.C.P. (MD) No.459 of 2021

Manimekalai

... Petitioner/ Sister of the Detenu

vs.

1.The Additional Chief Secretary to the Government
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.

2.The District Collector and District Magistrate,
Thanjavur District,
Thanjavur.

3.The Superintendent of Prison,
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 records pertaining to the impugned detention order passed by the second respondent made in his proceedings in P.D.No.24/2021 dated 03.03.2021 in detaining the detenu under Section 2 (f) of the Tamil Nadu Act 14 of 1982 as a GOONDA and quash the same and direct the respondents to produce the detenu namely Ayyapan S/o.Moorthy, Male, aged about 22 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran

For Respondents : Mr.A.Thiruvadikumar
Standing counsel for State

O R D E R

(Order of the Court was made by J.NISHA BANU, J.)

This habeas corpus petition has been filed by the mother of the detenu, namely, Ayyapan S/o.Moorthy, aged about 22 years, against the detention order passed by the second respondent in P.D.No.24/2021, dated 03.03.2021, branding him as 'Goonda' as contemplated under Section 2(f) of the Tamil Nadu Act, 14 of 1982.



2. Mr.M.R.Sreenivasan, learned counsel appearing for the petitioner would submit that the detenu was arrested on 05.02.2021. But the arrest of the detenu was not properly intimated to either the family members or the relatives of the petitioner which seriously affected the valuable right of the detenu to make effective representation for revocation of the detention order. In this regard, the learned counsel for the petitioner has drawn the attention of this Court to Page No.54 of the Booklet. He would further submit that the detention order passed against the co-accused was also set aside by this Court in H.C.P.(MD).No.596 of 2021, dated 29.07.2021.

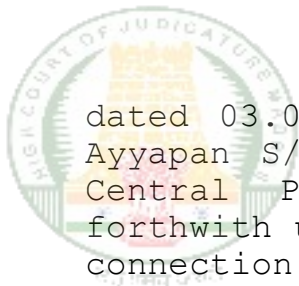
3. Per contra, Mr.A.Thiruvadikumar, learned Standing counsel appearing for the respondents, would submit that the detention order has been passed by the Detaining Authority after satisfying with the materials placed by the Sponsoring Authority and there is no illegality or irregularity in the impugned detention order. Furthermore, the intimation of arrest of the detenu was given through SMS and hence, the rights of the detenu has not been affected in any manner. It is the further submission of the learned Standing counsel that the provisions of the relevant Act has been strictly followed by the Detaining Authority and there is no lapse on his part at the time of passing the Detention Order.

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

5. A perusal of the arrest intimation form available at Page No.54 of the Booklet shows that the arrest of the detenu in the ground case was intimated through SMS to the Cell No.9787202028. However, there is no material to show that the said Cell Number belongs to the family members of the detenu or his relatives and the text of the message is also not found place in the booklet. This Court, following the decision of the Honourable Apex Court in the case of **D.K.Basu vs. State of West Bengal**, reported in **AIR (1997) SC 610**, in several cases, has consistently held that if there is no proper intimation of arrest of the detenu either to his family members or his relatives, his valuable rights would seriously prejudiced on the sense that they will not have the opportunity to make effective representation to the Authority concerned in time for revocation of the detention order.

6. In the light of the above facts and circumstances, we are convinced that the impugned detention order would not stand to the scrutiny of this Court and the same is, therefore, liable to be set aside.

7. In fine, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in P.D.No.24/2021



dated 03.03.2021, is set aside. Consequently, the detenu, namely, Ayyapan S/o.Moorthy, aged about 22 years, who is now detained in Central Prison, Tiruchirappalli, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case / proceedings.

WEB COPY

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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

H.C.P. (MD) No.459 of 2021

13.09.2021

MGJ(28.09.2021) 3P 6C

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