



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2021

CORAM:

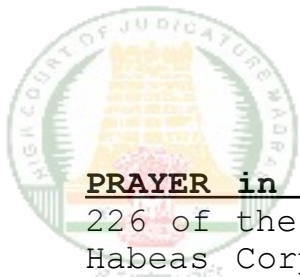
**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

H.C.P. (MD) Nos.499,503,492,498,502 and 496 of 2021

- | | |
|-----------------|--|
| 1.Diwakar | ... Petitioner/Friend of the detenu in
H.C.P (MD) No.499 of 2021. |
| 2.Muralidharan | ... Petitioner/Brother of the detenu in
H.C.P (MD) No.503 of 2021 |
| 3.Vasanthakumar | ... Petitioner/Brother of the detenu in
H.C.P (MD) No.492 of 2021 |
| 4.Joseph | ... Petitioner/Friend of the detenu in
H.C.P (MD) No.498 of 2021 |
| 5.Manoj Kumar | ... Petitioner/Friend of the detenu in
H.C.P (MD) No.502 of 2021 |
| 6.Paul Manickam | ... Petitioner/Brother of the detenu in
H.C.P (MD) No.496 of 2021 |

-vs-

- 1.The State, represented by
The Additional Chief Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai-9.
 - 2.The Commissioner of Police,
Office of the Commissioner of Police,
A.R.Line Road,
Koripallam,
Palayamkottai,
Tirunelveli City.
 - 3.The Superintendent of Prison,
Central Prison,
Coimbatore.
- ... Respondents in all H.C.Ps'



PRAYER in H.C.P(MD)No.499 of 2021: 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 from the second respondent in No.9/BCDFGISSSV/2021, dated 4.3.2021 by setting aside the said order of detention passed by the second respondent and setting the detenu Vickram, aged 27 years, son of Rajkumar at liberty, now detained in the Central Prison, Coimbatore.

PRAYER in H.C.P(MD)No.503 of 2021: 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 from the second respondent in No.12/BCDFGISSSV/2021, dated 4.3.2021 by setting aside the said order of detention passed by the second respondent and setting the detenu Muthukumaran, aged 23 years, son of Saravanan at liberty, now detained in the Central Prison, Coimbatore.

PRAYER in H.C.P(MD)No.492 of 2021: 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 from the second respondent in No.11/BCDFGISSSV/2021, dated 4.3.2021 by setting aside the said order of detention passed by the second respondent and setting the detenu Balamurugan, aged 26 years, son of Thirumalthambi at liberty, now detained in the Central Prison, Coimbatore.

PRAYER in H.C.P(MD)No.498 of 2021: 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 from the second respondent in No.10/BCDFGISSSV/2021, dated 4.3.2021 by setting aside the said order of detention passed by the second respondent and setting the detenu Alagar, aged 19 years, son of Rajarathinam at liberty, now detained in the Central Prison, Coimbatore.

PRAYER in H.C.P(MD)No.502 of 2021: 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 from the second respondent in No.7/BCDFGISSSV/2021, dated 4.3.2021 by setting aside the said order of detention passed by the second respondent and setting the detenu Praveenraj, aged 28 years, son of Dharmaraj at liberty, now detained in the Central Prison, Coimbatore.

PRAYER in H.C.P(MD)No.496 of 2021: 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 from the second respondent in No.8/BCDFGISSSV/2021, dated 4.3.2021 by setting aside the said order of detention passed by the second respondent and setting the detenu Rajasekaran, aged 27 years, son of Arul raj at liberty, now detained in the Central Prison, Coimbatore.



For Petitioner : Mr.V.Kathirvelu,
in all H.C.Ps' Senior Counsel
for Mr.K.Prabhu

For Respondents: Mr.S.Ravi
in all H.C.Ps' Standing Counsel for the State

COMMON ORDER

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

Heard Mr.V.Kathirvelu, learned Senior Counsel representing Mr.K.Prabhu, learned counsel appearing for the petitioners and Mr.S.Ravi, learned Standing Counsel for the State, appearing for the respondents and perused the materials available on record.

2.H.C.P(MD)No.499 of 2021 been filed by the friend of the detenu, namely, Vickram, aged 27 years, son of Rajkumar against the detention order in No.9/BCDFGISSSV/2021, dated 4.3.2021 branding him as "Goonda" as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

3.H.C.P(MD)No.503 of 2021 been filed by the brother of the detenu, namely, Muthukumaran, aged 23 years, son of Saravanan, against the detention order in No.12/BCDFGISSSV/2021, dated 4.3.2021 branding him as "Goonda" as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

4.H.C.P(MD)No.492 of 2021 been filed by the brother of the detenu, namely, Balamurugan, aged 26 years, son of Thirumalthambi, against the detention order in No.11/BCDFGISSSV/2021, dated 4.3.2021 branding him as "Goonda" as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

5.H.C.P(MD)No.498 of 2021 been filed by the Friend of the detenu, namely, Alagar, aged 19 years, son of Rajarathinam, against the detention order in No.10/BCDFGISSSV/2021, dated 4.3.2021 branding him as "Goonda" as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

6.H.C.P(MD)No.502 of 2021 been filed by the Friend of the detenu, namely, Praveenraj, aged 28 years, son of Dharmaraj, against the detention order in No.7/BCDFGISSSV/2021, dated 4.3.2021 branding him as "Goonda" as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

7.H.C.P(MD)No.496 of 2021 been filed by the brother of the detenu, namely, Rajasekaran, aged 27 years, son of Arul raj, against the detention order in No.8/BCDFGISSSV/2021, dated 4.3.2021



branding him as "Goonda" as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

8.Mr.V.Kathirvelu, learned Senior Counsel appearing for the petitioners would submit that though several grounds have been raised to assail the impugned detention orders, the detenus are liable to succeed on the sole ground of non-furnishing of extension orders sought for in their representations. In this regard, the learned Senior Counsel appearing for the Petitioners referred to the order reported in **G.Kalaiselvi vs. The State of Tamil Nadu** reported in (2007)5 CTC 657.

9.On the other hand, Mr.S.Ravi, learned Standing Counsel for the State, referring to the counter affidavit filed by the second respondent, would argue that the detention order has been passed based on the cogent and relevant materials placed by the Sponsoring Authority and there is no illegality or irregularity in the detention order warranting interference of this Court.

10.In **2007 (5) CTC**, Full Bench of this Court has held as follows:

'21.Law is well settled that the Detaining Authority is required to give copies of the relied upon documents along with grounds of detention and non furnishing of relied upon document has the effect of vitiating the order of detention. See Pownammal .v. State of Tamil Nadu and another, 1999 SCC(Cr1)231. Where, however, a document is not relied upon, yet the detenu asks for copy of such document, which is either referred to or has got some bearing, it is the duty of the appropriate authority to furnish such copy or at least indicate the reason why such copy is not supplied to the detenu inspite of specific request by the detenu. As already indicated, where a document asked for is on the face of it irrelevant, non furnishing of such document is immaterial. Where, however, the document has got some relevance, refusal to supply such copy, inspite of specific request, without any valid reason, may have the effect of vitiating the order of detention as the detenu is likely to be prejudiced, inasmuch as he would not be in a position to make an effective representation.

22.In the present case, in our opinion, when the detenu specifically asked for a copy of the remand order dated 20.3.2007, the appropriate authority should have either furnished copy of such order or furnished sufficient reasons as to why such order could not be



furnished. On this ground, the order of detention is liable to be quashed.''

11.In the present case, the four of the detenues have surrendered before the Judicial Magistrate, Rahdapuram on 8.2.2021 and one detainee namely, Balamurugan was arrested and remanded to judicial custody on 9.2.2021. Though the Remand Orders were enclosed in the book-let, remand extension orders were not found place. Hence, they sought for remand extension orders in their representation. Indisputably, those orders have not been furnished nor any explanation was given for not complying their request.

12.In the light of the above undisputed fact, we are of the opinion that the decision referred above would squarely apply to the case on hand.

13.In that view, the Habeas Corpus Petitions are allowed. The orders of detention passed by the second respondent, in (1) No.9/BCDFGISSSV/2021, dated 04.03.2021 (2) No.12/BCDFGISSSV/2021, dated 04.03.2021 (3) No.11/BCDFGISSSV/2021, dated 04.03.2021 (4) No.10/BCDFGISSSV/2021, dated 04.03.2021 (5) No.7/BCDFGISSSV/2021, dated 04.03.2021 and (6) No.8/BCDFGISSSV/2021, dated 04.03.2021, are set aside. Consequently, the detenus namely (1) Vickram, son of Rajkumar, aged about 27 years (2) Muthukumaran, son of Saravanan, aged about 23 years (3) Balamurugan, son of Thirumalthambi, aged 26 about years, (4) Alagar, son of Rajarathinam, aged about 19 years, (5) Praveenraj, son of Dharmaraj, aged about 28 years, and (6) Rajasekaran, son of Arul raj, aged about 27 years, who are now detained at Central Prison at Coimbatore are directed to be released forthwith unless their presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar(CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsn

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.

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



To:

- 1.The Additional Chief Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department Department
Secretariat, Chennai-9,
- 2.The Commissioner of Police,
Office of the Commissioner of Police,
A.R.Line Road,
Koripallam,
Palayamkottai,
Tirunelveli City.
- 3.The Superintendent of Prison,
Central Prison,
Coimbatore.
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.

COMMON ORDER MADE IN
H.C.P. (MD) Nos. 499, 503, 492, 498, 502
and 496 of 2021
19.07.2021

ls (CO)
TR(09.08.2021) 6P 6C