



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.10.2021

CORAM:

**THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN
and
THE HONOURABLE MRS.JUSTICE S.ANANTHI**

H.C.P. (MD) No.586 of 2021

S.Roselin

... Petitioner / Wife of the detenu

Vs.

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

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, calling for the entire records connected with the detention order passed in H.S (M)Confdl. No.47/2021 dated 24.03.2021, on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely the petitioner's husband i.e., Sakthivel @ Sakthi, aged about 36 years, S/o.Selvaraj, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner :Mr.N.Pragalathan

For Respondents :Mr.S.Ravi
Additional Public Prosecutor



O R D E R

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

WEB COPY This Habeas Corpus Petition has been filed by wife of the detenu, namely, Sakthivel @ Sakthi, aged about 36 years, S/o.Selvaraj, challenging the detention order in H.S(M) Confdl.No.47/2021 dated 24.03.2021, passed by the second respondent, branding him as "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

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

3.The learned counsel appearing for the petitioner would submit that the original remand order has not been furnished to the petitioner, enabling him to make an effective representation before the authorities, which vitiate the detention order and hence the same is liable to be set aside.

4.The learned Additional Public Prosecutor appearing for the state, on verification of records also admitted the fact that the original remand order was not furnished to the petitioner.

5.Considering the facts and circumstances, since the original remand order which is the document relied upon by the detaining authority has not been furnished to the petitioner, which prejudice his right to file an effective representation and hence, 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 in H.S.(M)Confdl.No.47/2021 dated 24.03.2021, passed by the second respondent, is set aside. Consequently, the detenu, namely, Sakthivel @ Sakthi, aged about 36 years, S/o.Selvaraj, who is now detained at Central Prison, Palayamkottai, 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 II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rm

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,
State 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 of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.586 of 2021

27.10.2021

MGJ/PM(15.11.2021) 3P 5C