



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 22.09.2021**

WEB COPY

**CORAM:**

**THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN  
and  
THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

**H.C.P.(MD)No.626 of 2021**

Kanmani ... Petitioner/Mother of the Detenu

Vs.

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

2.The Commissioner of Police,  
Office of the Commissioner of Police,  
Tirunelveli City.

3.The Superintendent of Prison,  
Palayamkottai Central Prison,  
Tirunelveli District.

... 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 entire records, connected with the detention order of the respondent no.2 in No.13/BCDFGISSSV/2021, dated 15.03.2021 and quash the same and direct the respondents to produce the detenu by name Asir Selvam, son of Karuppan, aged about 35 years, now detained in Palayamkottai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Vinoth Bharathi

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, Asir Selvam, S/o.Karuppan, aged about 35 years, challenging the detention order in No.13/BCDFGISSSV/2021, dated 15.03.2021, passed by the second respondent, branding him as "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

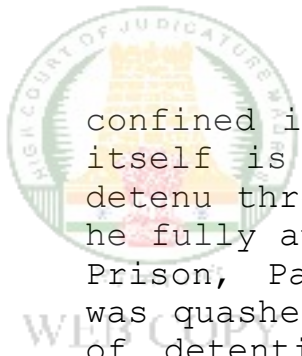
2. The learned counsel appearing for the petitioner would contend that though he has raised several grounds, he is mainly taking the ground of non-application of mind on the part of the detaining authority. The detention order has been passed on 15.03.2021 and the detenu was confined in Central Prison, Palayamkottai, whereas, the detaining authority has stated that the detenu was remanded in judicial custody and confined in Sub-Jail, Srivaikundam. However, the detention order itself is clearly stated that the copy has been served on the detenu through the Superintendent of Prison, Palayamkottai, though he fully aware of the fact that the detenu was confined in Central Prison, Palayamkottai. It is his further submission that the detention of the co-accused was quashed by this Court.

3.The learned Additional Public Prosecutor appearing for the respondents would state that after satisfying with the materials placed by the sponsoring authority, the detaining authority has passed the impugned detention order and therefore, there is no infirmity or illegality in the same. Thus, he would pray for dismissal of this petition.

4.Heard the learned counsel for the petitioner as well as the respondents.

5.Even though the petitioner has raised several grounds to quash the impugned detention order, the learned counsel for the petitioner would mainly place arguments on the ground of non-application of mind on the part of the detaining authority. In this regard, the learned counsel for the petitioner would state that the procedural safeguards guaranteed under Articles 21 and 22 of the Constitution of India have not been followed in this case and non-application mind on the part of the detaining authority in the passing the detention order would vitiate the impugned order of detention.

6.Perusal of the records would show that the detention order has been passed on 15.03.2021 and the detenu was confined in Central Prison, Palayamkottai, whereas, the detaining authority has stated that the detenu was remanded in judicial custody and



confined in Sub-Jail, Srivaikundam. However, the detention order itself is clearly stated that the copy has been served on the detenu through the Superintendent of Prison, Palayamkottai, though he fully aware of the fact that the detenu was confined in Central Prison, Palayamkottai. Further, the detention of the co-accused was quashed by this Court. We are of the opinion that the order of detention is liable to be quashed on the grounds of non-application of mind on the part of the detaining order.

7. In fine, the Habeas Corpus Petition is allowed. The detention order in No.13/BCDFGISSSV/2021, dated 15.03.2021, passed by the second respondent, is set aside. Consequently, the detenu, namely, Asir Selvam, S/o.Karuppan, aged about 35 years, 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 (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mpk

**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,  
Home, Prohibition and Excise Department,  
State of Tamil Nadu,  
Fort St.George,  
Chennai-600 009.
- 2.The Commissioner of Police,  
Office of the Commissioner of Police,  
Tirunelveli City.



3.The Superintendent of Prison,  
Palayamkottai Central Prison,  
Tirunelveli District.

4.The Joint Secretary,  
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. 626 of 2021**

**22.09.2021**

RK (18/10/2021) 4P 6C