



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) No.642 of 2021

S.Fathima

...Petitioner/Mother of the Detenu

-vs-

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thoothukudi District.

3.The Superintendent of Police,
Office of the Superintendent of Police,
Thuthukudi District.

4.The Superintendent of Prison,
Central Prison, Palayamkottai,
Thirunelveli.

5.The Inspector of Police,
Srivaikundam Police Station,
Thuthukudi 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 in H.S(M) Confdl.No.23 of 2021, dated 8.2.2021, on the file of the second respondent and to quash the same and to direct the respondents to produce the body and person of the Petitioner's son one named Thiru.Puthumairaj, son of Sundararaj, aged about 26 years, now detained at CentralPrison, Palayamkottai before this Court and set him at liberty forthwith.

For Petitioner : Mr.P.Muthamizh Selvakumar

For Respondents : Mr.S.Ravi

Standing Counsel for the State Government



O R D E R

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

This habeas corpus petition has been filed by the Mother of the detenu, namely, Puthumairaj, son of Sundararaj, aged about 26 years, challenging the detention order in H.S(M)Confdl.No.23 of 2021, dated 8.2.2021, passed by the second respondent, branding him as "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

2.Mr.P.Muthamizh Selvakumar, learned counsel appearing for the petitioner, would submit that though several grounds have been raised to assail the detention order impugned in this Habeas Corpus Petition, he is entitled to succeed in this case on the ground of non-application of mind on the part of the Detaining Authority. It is the submission of the learned counsel that the detaining authority has stated that the detenu involved in some other cases, however, there is no materials placed to that effect while arriving at the subjective satisfaction by the detaining authority.

3.Per contra, Mr.S.Ravi, learned Standing Counsel appearing for the State would submit that the detenu is involved in some other offences and after taking note of the gravity of the offence and after being satisfied with the materials produced by the Sponsoring Authority, the second respondent has rightly clamped the Detention Order on the detenu and there is no illegality or infirmity in the detention order warranting interference by this Court and hence, prayed for dismissal of the habeas corpus petition.

4.Heard both sides and perused the materials available on record.

5.In the instant case, for the occurrence took place on 12.01.2021, a case came to be registered in Crime No.06 of 2021 under Sections 302, 147, 148, 342, 427 and 201 of IPC The detenu was arrested on the same day and the detention order came to be passed on 8.2.2021. While arriving at the subjective satisfaction, the Detaining Authority has referred that the detenu involved in some other cases. Neither in the grounds of detention nor in the booklet, any material was produced for his involvement in other criminal cases. This Shows lack of application of mind on the part of the detaining authority while arriving at the subjective satisfaction. Hence, 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.23 of 2021, dated 8.2.2021, passed by the second respondent, is set aside. Consequently, the detenu, namely, Puthumairaj, son of Sundararaj, aged about 26 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 (AD II)

WEB COPY // True Copy //

/ /2021

Sub Assistant Registrar(CS)

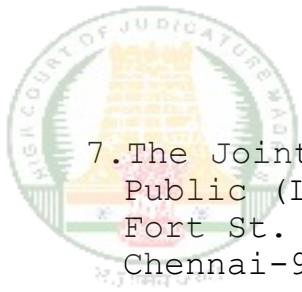
Vsn

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.

To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thoothukudi District.
- 3.The Superintendent of Police,
Office of the Superintendent of Police,
Thuthukudi District.
- 4.The Superintendent of Prison,
Central Prison, Palayamkottai,
Thirunelveli.
- 5.The Inspector of Police,
Srivaikundam Police Station,
Thuthukudi District.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



7.The Joint Secretary to Government,
Public (Law & Order),
Fort St. George,
Chennai-9.

WEB COPY

H.C.P. (MD) No.642 of 2021
19.07.2021

MGJ(03.08.2021) 4P 8C