



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

and

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

H.C.P. (MD) No.707 of 2021

WEB COPY

Pragatheeshwari

... Petitioner/wife of the detenu

-vs-

1.The State of Tamilnadu,

Represented by its Additional Chief Secretary to Government,
Home(Prohibition and Excise) Department,
Secretariat, Chennai- 9.

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

3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli,
Trichy 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 P.D.O.No.12/2021 dated 17.03.2021 passed by the second respondent on the detenu namely, Balamurugan, S/o. Adaikkalam, aged 24 years, who has been detained and branded as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Boot-leggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act 1982 (Tamil Nadu Act 14/1982) and confined at Central Prison, Tiruchirappalli, Trichy District and set aside the same and set the detenu at liberty.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.A.Thiruvadikumar

Standing counsel for the 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 wife of the detenu, namely Balamurugan, S/o. Adaikkalam, aged about 24 years, challenging the detention order in P.D.O.No.12/2021 dated 17.03.2021, passed by the second respondent, branding him as



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

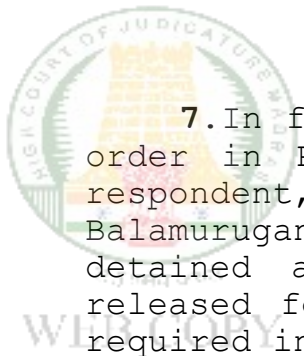
2.It is submitted by Mr.G.Thalaimutharasu, learned counsel appearing for the petitioner that the arrest of the detenu was intimated through SMS and therefore, the detention order is liable to be set aside on the ground of non-intimation of arrest of the detenu either to his family members or his relatives. According to the learned counsel for the petitioner, the non-intimation of arrest would seriously affect the valuable rights of the detenu to make effective representation to the Authorities concerned for revocation of the detention order.

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 Additional Public Prosecutor 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.37 of the booklet shows that the arrest of the detenu in the ground case was intimated through SMS to the Cell No.7094172343. 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 on the ground of non-intimation of arrest to the family members of the detenu.



7. In fine, the Habeas Corpus Petition is allowed. The detention order in P.D.O.No.12/2021 dated 17.03.2021, passed by the second respondent, is set aside. Consequently, the detenu, namely, Balamurugan, S/o. Adaikkalam, aged about 24 years, who is now detained at Central Prison, Tiruchirappalli is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pm

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

ORDER MADE IN
H.C.P. (MD) No.707 of 2021
DATED : 15.09.2021

DJ(CO)

RS (06.10.2021) 3P 6C

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