



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 24.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE G.ILANGO VAN

H.C.P. (MD) No.574 of 2020

S.Vignesh

... Petitioner

-vs-

1.State of Tamil Nadu,
Rep. by the Secretary to Government,
Home, Prohibition and Excise Department,
Fort, St. George,
Chennai - 600 009.

2.The District Collector and District Magistrate,
Kanniyakumari District,
Nagercoil.

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

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus calling for the entire records connected with the detention order passed in P.D.No.18/2020 dated 14.07.2020 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 brother i.e., Karthik Selvam @ Karthik, aged about 24 years, S/o Subramaniyan, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.K.Dinesh Babu

Additional Public Prosecutor

O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

The Habeas Corpus Petition has been filed by the brother of the detenu, namely, Karthik Selvam @ Karthik, aged about 24 years, S/o Subramaniyan, who has been branded as "Goonda" by the second



respondent in Detention Order in P.D.No.18/2020 dated 14.07.2020, as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

2.Mr.N.Pragalathan, learned counsel for the petitioner would argue that the impugned detention order is liable to be set aside on the grounds that the arrest of the detenu in the 4th adverse case has not been intimated to the detenu's relatives or his friends, which deprived the valuable right of the detenu from making effective steps to come on bail. It is next contended that page No.12 of the English version of the grounds of detention was not supplied to the detenu despite his representation dated 14.08.2020.

3.Per contra, the learned Additional Public Prosecutor while reiterating the counter affidavit filed by the second respondent submitted that the Detaining Authority has arrived at the subjective satisfaction based on the materials placed by the Sponsoring Authority and there is no infirmity or irregularity in the impugned order of detention passed by the second respondent and hence, prayed for dismissal of the habeas corpus petition.

4.We have heard the rival submissions and perused the materials available on records.

5.As rightly pointed out by the learned counsel for the petitioner, it is seen that the detenu is involved in four adverse cases apart from the ground case. In the ground case, he was arrested on 21.06.2020 and the arrest in the fourth adverse case was done on 24.06.2020. Perusal of the booklet would show that the arrest of the detenu in the fourth adverse case was not intimated to the relatives of the detenu or his friends. Further, as rightly pointed out by the learned counsel for the petitioner, page 12 in the English version of the grounds of detention was not supplied to the detenu. In this regard, he sent a representation dated 14.08.2020. Despite the same, the fact remains that the relevant page was not supplied to the detenu and there is no explanation forthcoming from the detaining authority for non furnishing of the relevant page. In this regard it is useful to refer the decision of the Full Bench of this Court in the case of **G.Kalaiselvi vs. The State of Tamil Nadu** reported in (2007)5 CTC 657, wherein it has been held that non-furnishing of the documents sought for by the detenu or offering no explanation for non-supplying of documents would vitiate the detention order. So, we are of the opinion that the above said decision would squarely applicable to the case on hand.

6.In view of that, the order of detention passed by the second respondent, in P.D.No.18/2020 dated 14.07.2020, is set aside and the habeas corpus petition is allowed. Consequently, the detenu, namely, Karthik Selvam @ Karthik, aged about 24 years, S/o Subramaniyan, who is detained at Central Prison, Palayamkotai, is directed to be



released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (CSIII)

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/ /2021

Sub Assistant Registrar(CS)

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

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PM(CO)
KB(24.03.2021) 3P 6C