



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2021

CORAM:

**THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

H.C.P. (MD) No.936 of 2021

R.Ganasundari

... Petitioner

-vs-

1.The Additional Chief Secretary to Government
Government of Tamilnadu
Home, Prohibition and Excise IX
Secretariat
George Fort, Chennai-600 009

2.The District Collector and District Magistrate
Sivagangai District
Sivagangai

3.The Superintendent of Prison
Madurai Central Prison
Madurai

... 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 records on the file of the second respondent and set aside the order of detention passed therein in Cr.M.P.No.07/Goonda/2021, dated 13.05.2021, direct the respondents to produce the detenu by name Dhanasekaran, son of Ramu, male, aged 26 years before this Court, now detained at Central Prison, Madurai and set him at liberty forthwith.

For Petitioner : Mr.William Christopher.J.

For Respondents : Mr.S.Ravi
Additional Public Prosecutor



O R D E R

S.VAIDYANATHAN, J.

and

DR.G.JAYACHANDRAN, J.

Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

2. The mother of the detenu has preferred this habeas corpus petition invoking Article 226 of the Constitution of India alleging that her son has been termed as a Goonda as defined under Section 3 (2) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, 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 of 1982) and preventively detained by the impugned detention order dated 13.05.2021.

3. On receiving the detention order, the petitioner made a representation, dated 28.06.2021, to the Authorities stating that the detention order suffers from infirmity, more particularly, the Tamil translation of the relevant documents were not furnished and those documents, which were furnished, were not legible and clear and hence, the fundamental rights guaranteed under Article 22(5) of the Constitution of India, which envisages effective representation, has been deprived by the respondents and therefore, sought for quashing the said detention order.

4. The learned Additional Public Prosecutor has filed a detailed counter affidavit, wherein it has been stated that the detenu is involved in two murder cases, of which one is the adverse case and the other one is the ground case, in respect of murdering husband and wife as honour killing. The said act of the detenu caused fear in the minds of the public and the Detaining Authority, on applying his mind, has passed the detention order dated 13.05.2021, citing the grounds of detention. The documents, which are alleged to be not legible and not clear, are all not referred documents and therefore, no prejudice is caused to the detenu.

5. Per contra, the learned counsel appearing for the petitioner would submit that the remand report and the remand extension order; dismissal of bail petition by the Lower Court are all referred documents and also relevant documents for effective representation. Furthermore, reference to the bail order granted to one Agniraj has no relevancy to the facts of the present case. Therefore, he would submit that the impugned detention order is illegal, since the detenu was deprived of his fundamental rights to make effective representation.



6. It is to be noted that the documents, which are alleged to be illegible and not furnished, are all related to judicial proceedings, more particularly, the remand extension order, which the detenu may know about his remand and extension immediately at the moment when he was produced before the learned Magistrate and therefore, it cannot be contended that non-furnishing of the remand extension order has caused prejudice to the detenu. The factum to detain the accused person under the preventive detention is the ground case as well as the adverse case. Those papers were furnished to the detenu and there is no harm over that. Perusal of the paper book indicates that all referred and relevant documents were furnished in Tamil language and the documents, which were not translated, are immaterial for deciding the detention or to make proper representation. Hence, this Court is of the view that the reason stated for quashing the impugned detention order is not sustainable in law and hence, the habeas corpus petition is liable to be dismissed.

7. In the result, the habeas corpus petition is dismissed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /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.

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To:

1.The Additional Chief Secretary to Government,
Government of Tamilnadu,
Home, Prohibition and Excise IX,
Secretariat,
George Fort, Chennai-600 009.

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

<https://hcservices.ecourts.gov.in/hcservices/>



3.The Superintendent of Prison,
Madurai Central Prison,
Madurai.

4. The Joint Secretary to Government,
Public (Law & Order), Fort Saint George, Chennai

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.J. WILLIAMCHRISTOPHER, Advocate (SR-34548[F] dated
16/11/2021)

H.C.P. (MD) No.936 of 2021
15.11.2021

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TR/SKN(25.11.2021) 4P 7C