



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.03.2021

CORAM:

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

H.C.P. (MD) No.1057 of 2020

P.Duraipandi ... Petitioner/Brother of Detenue

-vs-

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

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

3.The Superintendent,
Central Prison,
Madurai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus calling for the entire records in detention order, passed in Detention Order No.52/2020, dated 23.09.2020 on the file of the 2nd respondent herein and set aside the same as illegal and direct the Respondents to produce the petitioner's brother namely Thiru.Periyapandi, son of Paraman, Male, aged about 25 years, who is detained in Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.R.Shankar Ganesh
For Respondents : Mr.K.Dinesh Babu
Additional Public Prosecutor

O R D E R

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

This Habeas Corpus Petition has been filed by the brother of the detenu challenging the detention order passed by the second respondent in Detention Order No.52/2020, dated 23.09.2020, wherein, the detenu namely, Periyapandi, S/o.Paraman, aged about



25 years has been branded as 'Sand Offender' as contemplated under Section 2(gg) of the Tamil Nadu Act 14 of 1982.

2. Mr.R.Shankar Ganesh, learned counsel appearing for the petitioner would argue that though several grounds have been raised to assail the order of detention impugned in this habeas corpus petition, it is liable to be set aside on the sole ground that the detaining authority failed to supply the legible copies to the detenu, even though, he has sought for in the representation dated 07.10.2020.

3.Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the respondents, while reiterating the counter filed by the second respondent, would submit that the detenu was found illegally transporting the sand and hence, the second respondent has rightly clamped the detention order only to prevent the detenu from indulging in similar activities in future which is prejudicial to the maintenance of public order. According to the learned Additional Public Prosecutor, there is no infirmity or irregularity in the order of detention passed by the second respondent warranting interference of this Court and hence, he prayed for dismissal of the Habeas Corpus Petition.

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

5. In the matter on hand, the detenu was arrested on 03.09.2020 for his involvement in Cr.No.664 of 2020 on the file of the Jeyamangalam Police Station. The grounds of detention shows that no adverse case has been registered against the detenu. The representation was sent on behalf of the detenu dated 07.10.2020 seeking clear/legible copies of the documents, though no specific pages have been mentioned in the representation, a perusal of the booklet shows that pages 24 & 26 are illegible copies. Despite the representation of the petitioner, admittedly, those legible copies has not been supplied to the petitioner and there is no explanation given by the respondents for non supplying of those copies. In this regard, it is relevant to note 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, in similar facts, the Full Bench of this Court has set aside the detention order. Hence, in our considered view, the detention order is liable to be set aside on the ground of non supplying of the legible copies to the detenu.

6. In fine, the order of detention passed by the second respondent, in Detention Order No.52/2020, dated 23.09.2020 is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, Periyapandi, S/o Paraman, aged about 25 years,



now detained at Central Prison, Madurai is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS-II)

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/ /2021

Sub Assistant Registrar(CS)

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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 Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Theni District, Theni.
- 3.The Superintendent,
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.

H.C.P. (MD) No.1057 of 2020
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SRK(CO)

TR(27.04.2021) 3P 6C