



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2021

CORAM:

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

H.C.P. (MD) No.923 of 2020

Ajith @ Pappali

... Petitioner

-vs-

- 1.State of Tamil Nadu
rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort. St. George, Chennai - 600 009.
 - 2.The District Collector and District Magistrate,
Thoothukudi District, Thoothukudi.
 - 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 H.S(M)Confdl No.77/2020 dated 30.09.2020 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely Ajith @ Pappali, aged about 20 years, S/o Murugesan, 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 detenu, namely, Ajith @ Pappali, aged about 20 years, S/o Murugesan, who has been branded as "Goonda" by the second respondent in Detention Order in H.S(M)Confdl No.77/2020 dated 30.09.2020, as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.



2.Mr.N.Pragalathan, learned counsel for the petitioner would urge that though several grounds have been made to assail the detention order impugned in this habeas corpus petition, the petitioner is entitled to succeed on the sole ground of failure on the part of the detaining authority to inform the arrest of the detenu in the 3rd and 4th adverse cases. It is the submission of the learned counsel for the petitioner that admittedly, the arrest was intimated to the jail authorities and not to the relatives of the detenu or his family friends. According to the learned counsel, non-intimation of the arrest to the relatives of the detenu or his family members infringed the rights of the detenu in making effective representation to the authorities to revoke the detention order. In this regard, the learned counsel has placed reliance upon 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***.

3.Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the respondents would submit that it is true that the detenu was arrested in the ground case on 03.09.2020 and after considering his involvement in the 3rd and 4th adverse cases, his arrest was formally made in the 3rd and 4th adverse cases on 17.09.2020 and it was intimated to the jail authorities. According to the learned Additional Public Prosecutor, there is no necessity to inform the arrest in the 3rd and 4th adverse cases to the relatives of the detenu and hence, the arrest of the detenu was properly intimated to the jail authorities.

4.We are unable to accept the submission of the learned Additional Public Prosecutor for the reason that only after receipt of intimation of arrest in the 3rd and 4th adverse cases, the relatives or the friends of the detenu would make efforts to file bail application to release the detenu in those cases. Non-intimation of arrest in the 3rd and 4th adverse cases would certainly infringe the valuable rights of the detenu in making effective representation to the authorities to revoke the detention order.

5.This Court, following the decision of the Honourable Apex Court in the case of ***D.K.Basu*** (cited supra), 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 be 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 fine, the order of detention passed by the second respondent, in H.S(M)Confdl No.77/2020 dated 30.09.2020 is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, Ajith @ Pappali, aged about 20 years, S/o Murugesan, 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(CS-AE)

// True Copy //

/ /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,
Home, Prohibition and Excise Department,
Fort. St. George,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.
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.

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