



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

H.C.P. (MD) No.1255 of 2021

WEB COPY

S.Rajalingam

... Petitioner/Father of the Detenu

-vs-

1.State of Tamil Nadu,

Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Exercise Department,
Secretariat,
Chennai - 600 009.

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

3.The Superintendent of Prison,
Central Prison,
Trichy,
Trichy District.

... Respondents

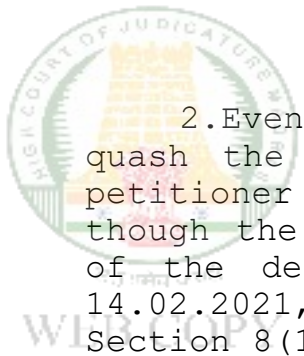
PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, calling for the entire records, connected with the detention order passed in Cr.M.P.No.01 of 2021, dated 07.02.2021, on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely, the petitioner's son i.e, John, aged about 24 years, S/o.Rajalingam, now detained at the Central Prison, Trichy, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan
For Respondents : Mr.S.Ravi
Addl.Public Prosecutor

O R D E R

(Order of the Court was made by V. BHARATHIDASAN, J.)

This Habeas Corpus Petition has been filed by father of the detenu, namely, John, aged about 24 years, challenging the detention order in Cr.M.P.No.01 of 2021, dated 07.02.2021, passed by the second respondent, branding him as "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.



2. Even though the petitioner has raised several grounds to quash the impugned detention order, the learned counsel for the petitioner would mainly place arguments on the ground that even though the detention order has been passed on 07.02.2021, the copy of the detention order belatedly served on the detenu only on 14.02.2021, after a period of 5 days, which is in violation of Section 8(1) of Act 14 of 1982. In this regard, the learned counsel for the petitioner would state that the procedural safeguards guaranteed under Articles 21 and 22 of the Constitution of India have not been followed in this case, which would vitiate the impugned order of detention.

3. Mr. S. Ravi, the learned Additional Public Prosecutor, appearing for the respondents would state that after satisfying with the materials placed by the sponsoring authority, the detaining authority has passed the impugned detention order and therefore, there is no infirmity or illegality in the same. Thus, he would pray for dismissal of this petition.

4. Heard the learned counsel for the petitioner as well as the respondents.

5. Admittedly, in the case on hand, the copy of the detention order has been served on the detenu only after a period of five days, which is in violation of Section 8(1) of the Act 14 of 1982, as rightly pointed out by the learned counsel for the petitioner. Hence, in our considered view, the detention order is liable to be set aside solely on the ground referred to supra.

6. In fine, the Habeas Corpus Petition is allowed. The detention order in Cr.M.P.No.01 of 2021, dated 07.02.2021, passed by the second respondent, is set aside. Consequently, the detenu, namely, John, S/o. Rajalingam, 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 (A.D II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

MPK

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.

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



To

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

ORDER MADE IN
H.C.P. (MD) No.1255 of 2021
20.10.2021

TP (CO)
RS/UV (10.11.2021) 3P 6C