



WEB COPY

H.C.P.(MD) No.1073 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

H.C.P. (MD) No.1073 of 2020

A.Hemalatha

... Petitioner/Daughter of the Detenu

-vs-

1.State of Tamil Nadu,
The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

2.The District Magistrate and District Collector,
O/o District Magistrate and District Collector,
Pudukkottai District,
Pudukkottai.

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

... 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 P.D.O.No.76/2020 dated 11.11.2020 on the file of the 2nd respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's Father namely, Arockiyadoss, S/o Pathiyanathan, male, aged 49 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

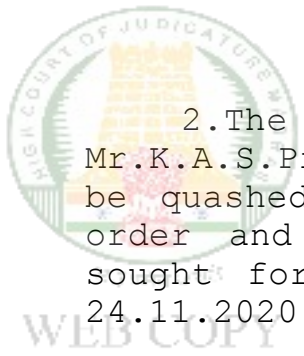
For Petitioner : Mr.K.A.S.Prabhu

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 daughter of the detenu, namely, Arockiyadoss, son of Pathiyanathan, male, aged 49 years, who has been branded as "Drug Offender" by the second respondent in P.D.O.No.76/2020 dated 11.11.2020, as contemplated under Section 2(e) of the Tamil Nadu Act 14 of 1982.



2.The learned counsel appearing for the petitioner Mr.K.A.S.Prabhu would argue that the detention order is liable to be quashed on the sole ground of non furnishing of the remand order and the remand extension order, despite they have been sought for by the petitioner through his representation, dated 24.11.2020.2.

3.Per contra, the learned Additional Public Prosecutor appearing for the State Mr.K.Dinesh Babu, on instructions, would argue that though the detention order has been passed on the solitary case, but he is involved in the offence of IPC in Crime No.740 of 2015 on the file of the Inspector of Police, Karaikudi North Police Station and the prohibition Act in Crime No.1015 of 2017 on the file of the Prohibition Wing, Gobi. It is further submitted that the detenu was found in possession of 176 Kg Ganja. Taking note of these aspects, the second respondent has rightly passed the detention order only to prevent him from indulging in similar offence in future, which would prejudice to the maintenance of the 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. Hence, he prayed for dismissal of the Habeas Corpus Petitions.

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, in the representation dated 24.11.2020, the detenu had sought for the remand order of the learned Judicial Magistrate, Pudukkottai, dated 29.09.2021, but so far no orders have been furnished nor any explanation has been given for non furnishing of the remand order. A Full Bench of this Court in the case of **G.Kalaiselvi vs. The State of Tamil Nadu** reported in **(2007)5 CTC 657**, has 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. Following the above said decision, we are of the opinion that the detention order impugned in this habeas corpus petition is liable to be set aside.

6.In fine, the order of detention passed by the second respondent, in P.D.O.No.76/2020 dated 11.11.2020 is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, Arockiyadoss, S/o Pathiyanathan, male, aged 49 years, now detained at Trichy Central Prison is directed to be released

for which his presence or custody or detention is required



in connection with any other case.

Sd/-

Assistant Registrar (Records)

/ True Copy/

/ /2021

Sub Assistant Registrar(CS)

skn

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 Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Magistrate and District Collector,
O/o District Magistrate and District Collector,
Pudukkottai District, Pudukkottai.
- 3.The Superintendent of Prison,
Central Prison, Tiruchirappalli
- 4.The Joint Secretary to Government Public
(Law & Order) Department,
Fort. St. George, Chennai - 600 009.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.1073 of 2020

29.03.2021

SSI (07.05.2021) 3P 6C