



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

H.C.P.NO.75 OF 2022

Dhanalakshmi

...Petitioner

Vs.

- 1.The Chief Secretary to Government of Puducherry,
Union of Puducherry, Chief Secretariat,
Puducherry.
- 2.The Secretary to Lieutenant Governor,
Rajnivas, Puducherry.
- 3.The District Magistrate - cum - Authorised Officer,
Office of the District Magistrate,
1st Floor, Vazahdhavoor Road,
Kavundanpalayam,
Puducherry - 605 009.
- 4.The Superintendent of Police, (South),
Puducherry.
- 5.The Chief Superintendent of Jail,
Central Prison, Kalapet, Puducherry.
- 6.The Station House Officer,
Ariyankuppam Police Station,
Puducherry.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records, relating to the detention order in No.23/DM/RO/D2/PPASAA/2021, dated 01.12.2021 passed by the third respondent under the Puducherry Prevention of Anti-Social Activities Act, 2008 (Act 10 of 2010) and set aside the same and direct the respondent to produce the petitioner's son Sedhu @ Vignesh S/o. Azhaguvel aged about 24 years the detinue, now confined in Central Prison, Kalapet, Puducherry before this Hon'ble Court and set the petitioner's son Sedhu @ Vignesh s/o. Azhaguvel, aged about 24 years the detinue herein at liberty.



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For Petitioner : Mr. U.Yuvaraj

For Respondents : Mr. V.Balamurugane
Additional Public Prosecutor
(Puducherry)

ORDER

(Hearing was made through Hybrid Mode)

S.VAIDYANATHAN, J.,

and

A.D.JAGADISH CHANDIRA, J.,

The petitioner is the mother of the detenu Sedhu @ Vignesh, aged 24 years, S/o. Azhaguvel. The detenu has been detained by the third respondent by his order in No.23/DM/RO/D2/PPASAA/2021, dated 01.12.2021, holding to be a "Dangerous Person", as contemplated under Sub-Section (1) of Section 3 of the Puducherry Prevention of Anti-Social Activities Act, 2008 (Act 10 of 2010). The said order is under challenge in this Habeas Corpus Petition.

2.We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor (Puducherry) appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3.Though many grounds have been raised in the petition, learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention. Learned counsel for the petitioner submitted that the petitioner was already granted bail in Cr.No.165/2021 registered by Ariyankuppam Police Station, in CrI.M.P. No.7140/2021 by the learned Judicial Magistrate - III, Puducherry, and the document was also enclosed along with the booklet. However, the detaining authority had passed an order as if the bail was not granted to detenu. Hence, it is stated that the Detaining Authority has passed the impugned detention order in total non-application of mind.

4. Perusal of the Booklet shows that the last document annexed to the booklet is the bail order granted by the Judicial Magistrate III, Puducherry in CrI.M.P. No.7140 of 2021. Even though bail was granted to the detenu, it is seen that the Detaining Authority has passed the detention order as if bail was not granted to the detenu. Hence, the detention order passed by the detaining authority is on non-application of mind and the same has to be vitiated.



5. It is a trite law that personal liberty protected under Article 21 of the Constitution of India is so sacrosanct and so high in the scale of Constitutional values that it is the obligation of the detaining authority to show that the impugned detention meticulously accords with the procedure established by law. Preventive detention is preventive and not punitive. When ordinary law of the land is sufficient to deal with, taking recourse to the preventive detention law is illegal. The impugned detention order is therefore liable to be quashed.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.23/DM/RO/D2/PPASAA/2021, dated 01.12.2021, passed by the third respondent is set aside. The detenu, namely, Sedhu @ Vignesh, aged 24 years, S/o. Azhaguvel, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar

bkn

To:

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2. The Secretary to Lieutenant Governor,
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Puducherry.



7.The Public Prosecutor,
High Court, Madras.

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PL (CO)
RVM(07/07/2022)

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