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HCP No 254 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2022

Coram:

The Honourable Mr. Justice **S.VAIDYANATHAN**
and
The Honourable Mr. Justice **A.D.JAGADISH CHANDIRA**

H.C.P.No.254 of 2022

C.Pechiyammal

.. Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
2. The Commissioner of Police / Detaining Authority,
City Police Office, Huzur Road,
Coimbatore City, Coimbatore.
3. The Superintendent of Prison,
Central Prison,
Coimbatore.
4. The Inspector of Police,
D-3, Podanur Police Station,
Coimbatore City,
Coimbatore.

.. Respondents



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Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent in C.No.54/G/IS/2021 dated 18.11.2021 against the detenu N.Mayan, son of Nallamayan aged about 51 years, who is now confined at Central Prison, Coimbatore, and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr. G.Ashok Kumar
For Respondents : Mr. M.Babu Muthumeeran
Additional Public Prosecutor

ORDER
(Hearing was made through Hybrid mode)

S.VAIDYANATHAN, J.,
and
A.D.JAGADISH CHANDIRA, J.,

The petitioner is the sister of N.Mayan, son of Nallamayan aged about 51 years, who is the detenu. The detenu has been detained by the second respondent in connection with order in C.No.54/G/IS/2021 dated 18.11.2021, holding him to be a "DRUG OFFENDER", as contemplated under Section 2(e) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.



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2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents and we have also perused the records carefully.

3. Though learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the detaining authority, while detaining the detenu, has not furnished the legible copies of the documents relied on by him. This deprived the detenu from making effective representation. Therefore, on this sole ground, the detention order is liable to be quashed.

4. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially the Form 91 document at Page No.42 of the booklet, it is clear that the detaining authority, by providing illegible copies of the said document, has taken away the rights of detenu to effectively defend himself against his detention. Thus the impugned detention order is liable to be set aside on this ground.



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5. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.54/G/IS/2021 dated 18.11.2021 passed by the second respondent is set aside. The detenu, namely, N.Mayan, son of Nallamayan aged about 51 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(S.V.N.,J.) (A.D.J.C.,J.)
12.07.2022

Index: Yes/No
bkn

Note: i) Issue order copy forthwith.

ii) The Uploaded order can be utilized for the purpose of the execution of the order.



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To
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1. The Additional Chief Secretary to Government,
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2. The Commissioner of Police / Detaining Authority,
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3. The Superintendent of Prison,
Central Prison,
Coimbatore.
4. The Inspector of Police,
D-3, Podanur Police Station,
Coimbatore City,
Coimbatore.
5. The Public Prosecutor,
High Court, Madras.



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A.D.JAGADISH CHANDIRA, J.,

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