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H.C.P.No.389 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mr. Justice **RMT.TEEKAA RAMAN**

H.C.P.No.389 of 2022

Janiki

.. Petitioner

Vs

State represented by

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai-9.
- 2.The District Magistrate and District Collector,
Namakkal District, Namakkal.
- 3.The Superintendent of Police,
Namakkal District, Namakkal.
- 4.The Superintendent of Prison,
Central Prison,
Salem.
- 5.The Inspector of Police,
Namakkal Police Station,
Namakkal District.

.. 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 C.M.P.No.5/Drug offender/2022(M1) dated 10.02.2022 on the file of the District Magistrate and District Collector, Namakkal District, Namakkal, the second respondent herein and quash the same as illegal and direct the respondents to produce the detenu Mugesh S/o.Alagesan, aged about 29 years, now confined at the Central Prison, Salem, before this Court and set him at liberty.

For Petitioner : Ms.S.Sengkodi

For Respondents : Mr.R.Muniyapparaj
Addl. Public Prosecutor

ORDER

(Made by *P.N.PRAKASH, J.*)

The petitioner is the mother of the detenu Mugesh S/o.Alagesan, aged about 29 years. The detenu has been detained by the second respondent by his order in C.M.P.No.5/Drug offender/2022(M1) dated 10.02.2022, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.



H.C.P.No.389 of 2022

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

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. The learned Additional Public Prosecutor strongly opposed the habeas corpus petition by filing his counter.

5. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially seizure mahazar at Page No.38 of the booklet, it is clear that the detaining authority, by providing illegible copies of the documents, has taken away the rights of detenu to effectively defend himself against



H.C.P.No.389 of 2022

his detention. Thus the impugned detention order is liable to be set aside on this ground.

In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.5/Drug offender/2022(M1) dated 10.02.2022, passed by the second respondent is set aside. The detenu, viz., Mugesh S/o.Alagesan, aged about 29 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(P.N.P., J.) (TKRJ)
27.10.2022

Index: Yes/No
nsd



H.C.P.No.389 of 2022

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To

- 1.The Secretary to Government,
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Chennai-9.
- 2.The District Magistrate and District Collector,
Namakkal District, Namakkal.
- 3.The Superintendent of Police,
Namakkal District, Namakkal.
- 4.The Superintendent of Prison,
Central Prison,
Salem.
- 5.The Inspector of Police,
Namakkal Police Station,
Namakkal District.
- 6.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai – 9.
- 7.The Public Prosecutor,
High Court, Madras.



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H.C.P.No.389 of 2022

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RMT.TEEKAA RAMAN, J.

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H.C.P.No.389 of 2022

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