



WEB COPY



HCP No.507 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2022

Coram

**THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH**

H.C.P.No.507 of 2022

Vasantha
W/o.Viswanathan

... Petitioner

Vs.

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George,
Chennai - 600 009.
- 2.The Commissioner of Police/Detaining Authority
Huzur Road,
Coimbatore City,
Coimbatore – 18.
- 3.The Superintendent of Police,
Central Prison – Coimbatore,
Coimbatore District.
- 4.The State Rep. by its
The Inspector of Police,
All Women Police Station (Central)
Coimbatore District.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus calling for the entire records, relating to the petitioner's on detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 18.03.2022 on the file of the second respondent herein made in proceedings Memo.C.No.20/G/IS/2022, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely V.Mohanasundaram, S/o.Viswanathan, aged 34 years before this Court and set the petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison, Coimbatore.

For Petitioner : Mr.W.Camyles Gandhi
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Made by **N.ANAND VENKATESH, J**]

The petitioner is the mother of the detenu, V.Mohanasundaram, S/o. Viswanathan, aged 34 years, who has been detained by the second respondent by his order in C.No.20/G/IS/2022 dated 18.03.2022, holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) 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 learned counsel for the petitioner and learned Additional Public Prosecutor for the respondents. We have also perused the records produced by the Detaining Authority.

3. Learned counsel for the petitioner submits that Page No.93 in the booklet [observation mahazar in the similar case] furnished to the detenu is illegible. Learned counsel further submits that the same adversely has affected the detenu's right of making an effective representation.

4.The learned Additional Public Prosecutor appearing for the State submitted that the detenu was arrested on 16.02.2022 and remanded to judicial custody. The investigation was completed and final report has been filed on 30.04.2022 before the Special Court for POCSO, Coimbatore and the same was taken on file in S.C.No.140 of 2022.

5. When the documents furnished to the detenu are illegible, opportunity of clear understanding and making effective representation in keeping with Article 22(5) of the Constitution of India on such understanding is lost and the detenu is



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deprived thereof. This would vitiate the order of detention. For the aforesaid reasons, this Court would allow the present petition.

In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.20/G/IS/2022 dated 18.03.2022, passed by the second respondent is set aside. The detenu, viz., V.Mohanasundaram, S/o. Viswanathan, aged 34 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[P.N.P., J] [N.A.V., J]
23.12.2022

Index: Yes/No
gm/ssr

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George,
Chennai - 600 009.
- 2.The Commissioner of Police/Detaining Authority,
Huzur Road,
Coimbatore City,
Coimbatore – 18.



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3. The Superintendent of Police,
Central Prison – Coimbatore,
Coimbatore District.
4. The Inspector of Police,
All Women Police Station (Central)
Coimbatore District.
5. The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai – 9.
6. The Public Prosecutor,
High Court, Madras.



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