



H.C.P.No.717 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.717 of 2022

Jothilakshmi

.. Petitioner

Vs

- 1.State of Tamil Nadu represented by its
The Secretary,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.
- 2.The Commissioner of Police,
Commissioner's Office,
Salem City, Salem.
- 3.The Superintendent of Prison,
Central Prison,
Salem, Salem District.
- 4.The Inspector of Police,
Ammamet Police Station,
Salem District.

.. Respondents



H.C.P.No.717 of 2022

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records of the detention dated 19.04.2022 in detention order C.M.P.No.26/Goonda/Salem City/2022 on the file of the second respondent herein and quash the same and direct the respondent herein to produce the body of the detenu Prakash @ Sivaprakasam, S/o.Thangaraj, Hindu, aged about 38 years, who is now confined in the Central Prison, Salem, before this Court and set him at liberty.

For Petitioner : Mr.R.Thamaraiselvan

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

ORDER

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

The petitioner is the wife of the detenu Prakash @ Sivaprakasam, S/o.Thangaraj, aged about 38 years. The detenu has been detained by the second respondent by his order in Memo C.M.P.No.26/Goonda/Salem City/2022 dated 19.04.2022, 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.717 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 the 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 arrest intimation has not been translated in vernacular language. This deprived the detenu from making effective representation. Therefore, on this 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 Page No.125 of the booklet, it is clear that the arrest intimation has not been translated in vernacular language. Thus the impugned detention order is liable to be set aside on this ground.



H.C.P.No.717 of 2022

In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.26/Goonda/Salem City/2022 dated 19.04.2022, passed by the second respondent is set aside. The detenu, viz., Prakash @ Sivaprakasam, S/o.Thangaraj, aged about 38 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.717 of 2022

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To

- 1.The Secretary,
Home, Prohibition and Excise Department,
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Chennai-600 009.
- 2.The Commissioner of Police,
Commissioner's Office,
Salem City, Salem.
- 3.The Superintendent of Prison,
Central Prison,
Salem, Salem District.
- 4.The Inspector of Police,
Ammamet Police Station,
Salem 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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RMT.TEEKAA RAMAN, J.

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