



WEB COPY



Order dated : 01.11.2022  
HCP No.830 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 01.11.2022**

**Coram**

**THE HONOURABLE MR. JUSTICE P.N.PRAKASH**  
**and**  
**THE HONOURABLE MR. JUSTICE RMT. TEEKAA RAMAN**

**H.C.P.No.830 of 2022**

Yuvarani

W/o.Settu alias Pondur Settu

... Petitioner

**Vs.**

1.State of Tamil Nadu

represented by its

Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St.George, Chennai - 600 009.

2.The District Collector and District Magistrate,  
Kancheepuram District, Kancheepuram.

3.The Superintendent of Police,  
Kancheepuram District, Kancheepuram.

4.The Inspector of Police,  
Sunguvarchatram Police Station,  
Kancheepuram.

5.The Superintendent of Prison,  
Central Prison, Puzhal,  
Chennai - 600 066.

... 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 records of the detention made in BCDFGISSSV No.18/2022 dated 27.04.2022 passed by the second respondent herein and set aside the same and direct the respondents to produce the detenu before this Court and set the detenu Settu @ Pondur Settu S/o.Subramaniyan, aged 47 years, who is detained at Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.Y.Deva Arul Prakash  
For Respondents : Mr.R.Muniyapparaj  
Additional Public Prosecutor

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### **ORDER**

[Made by ***RMT. TEEKAA RAMAN, J.***]

The petitioner is the wife of the detenu, Settu @ Pondur Settu S/o.Subramaniyan, aged 47 years. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.18/2022 dated 27.04.2022, holding him to be a "Sand Offender", as contemplated under Section 2(gg) 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. Though many grounds have been raised in the petition, learned counsel 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. According to the learned counsel for the petitioner, the sponsoring authority has stated in the Arrest Memo furnished to the detenu, that the arrest of the detenu has been intimated to the relatives of the detenu. However, there is no material to substantiate the service of arrest intimation stated to have been made to the relatives of the detenu. Therefore, it is stated that the detenu was deprived of making an effective representation in the absence of furnishing of full particulars by the detaining authority. Hence, it is stated that the Detaining Authority has passed the impugned detention order in total non-application of mind.



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4. *Per contra*, the learned Additional Public Prosecutor would submit that the arrest of the detenu has been intimated to the relatives of the detenu.

5. However, we find that there are no material particulars to substantiate the same. This Court has also taken the similar view in such cases that the detention order cannot be sustained.

6. As evidenced from the Booklet furnished to us, a mere endorsement is made by the authorities to the effect that the arrest intimation has been informed to the relatives of the detenu, but, no materials have been furnished to substantiate that the said intimation was sent through Thapal or Registered post or as per the procedure laid down. Therefore, non-furnishing of details given to the relatives of the detenu would amount to deprivation of the right of the detenu to make an effective representation and the same would vitiate the order of detention and the same cannot be sustained in the eye of law.



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7. It is a trite law that personal liberty protected under Article 21 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.

In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.18/2022 dated 27.04.2022, passed by the second respondent is set aside. The detenu, viz., Settu @ Pondur Settu S/o.Subramaniyan, aged 47 years, is directed to be released forthwith unless his detention is required in connection with any other case.

**[PNP, J.]                      [TKR, J.]**  
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Index: Yes/No  
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**P.N.PRAKASH, J.**

and

**RMT. TEEKAA RAMAN, J.**

gm

To

- 1.The Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St.George, Chennai - 600 009.
- 2.The District Collector and District Magistrate,  
Kancheepuram District, Kancheepuram.
- 3.The Superintendent of Police,  
Kancheepuram District, Kancheepuram.
- 4.The Inspector of Police,  
Sunguvarchatram Police Station,  
Kancheepuram.
- 5.The Superintendent of Prison,  
Central Prison, Puzhal,  
Chennai - 600 066.
- 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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