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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2022

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

H.C.P.No.1073 of 2021

T.Rajeshwari
W/o.Durairaja

..Petitioner/Wife of Detenue

Vs.

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, St.George Fort,
Chennai - 600 009.
2. The Commissioner of Police,
Detaining Authority Office (Goondas Section),
Greater Chennai, Vepery,
Chennai - 600 007.
3. The Superintendent of Prison,
Central Prison II,
Puzhal, Chennai.
4. The Inspector of Police,
NIB-CID Police,
Egmore, Chennai - 600 008.

..Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to produce the body of the petitioner's husband, namely, Durairaja s/o.Thangadurai, aged about 33 years, who is detained in Central Prison II, Puzhal, Chennai - 66, before this Court and set him at liberty forthwith by calling for the records pursuant to the detention order dated 26.02.2021 made in Memo No.60/BCDFGISSSV/ 2021 on the file of the second respondent herein and quash the same.

For Petitioner : Mr.R.Thangamani

For Respondents: Mr.R.Muniyapparaj
Additional Public Prosecutor



O R D E R

[Order of the Court was made by P.N.PRAKASH, J]

The petitioner is the wife of the detenu viz., Durairaja s/o.Thangadurai, aged about 33 years. The detenu has been detained by the second respondent by his order in No.60/BCDFGISSSV/2021 dated 26.02.2021, holding him to be a "Drug Offender", as contemplated under Section 2(e) of the Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

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.Learned counsel for petitioner submits that page No.89 in the booklet furnished to the detenu is illegible. Learned counsel further submits that the same adversely has affected his right of making an effective representation.

4.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 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 No.60/BCDFGISSSV/2021 dated 26.02.2021 passed by the second respondent is set aside. The detenu, viz., Durairaja s/o.Thangadurai, aged about 33 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gm

To

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, St.George Fort,
Chennai - 600 009.



2. The Commissioner of Police,
Detaining Authority Office (Goondas Section),
Greater Chennai, Vepery,
Chennai - 600 007.

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3. The Superintendent of Prison,
Central Prison II,
Puzhal, Chennai.

4. The Inspector of Police,
NIB-CID Police,
Egmore, Chennai - 600 008.

5. The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.

6. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Thangamani, Advocate, S.R.No.4258

H.C.P.No.1073 of 2021

SRA (CO)
RGA (25/01/2022)