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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2022

Coram

The Honourable Mr. Justice P.N.PRAKASH
and
The Honourable Ms. Justice R.N.MANJULA

H.C.P.No.1109 of 2021

Priyadharshini

.. Petitioner

Vs.

1.The Union of India,
Represented by its
Secretary to Government,
Ministry of Home Affairs,
Department of Internal Security,
North Block, New Delhi - 100 001.

2.The Union Territory of Puducherry,
Represented by its
Secretary to Government
Home Department,
Secretariat,
Puducherry.

3.The District Magistrate
-cum-Authorized Officer,
1st Floor, New Revenue Complex,
Vazhadvavoor Road,
Pettaiyanchathiram,
Puducherry - 605 009.

4.The Senior Superintendent of Police (L & O),
Puducherry.

5.The Inspector of Police,
Grand Bazaar Police Station,
Puducherry.

6.The Chief Superintendent of Jail,
Central Prison, Kalapet,
Puducherry.

.. Respondents



Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records pertaining to the detention order No.15/DM/RO/D2/PPASAA/2021 dated 20.04.2021 passed by the 3rd respondent herein and issue direction to produce the body of the detenu viz., Sivaperumal @ Sathiya, S/o.Saravanan, aged 23 years, present confined in the Central Prison, Puducherry, before this Court and set him at liberty forthwith and quash the same.

For Petitioner : Mr.G.Vinoth Kumar
for Mr.M.P.Yuvaraj
For Respondents : Mr.V.Balamurugane
Addl. Public Prosecutor
(Puducherry)

ORDER

[Made by P.N.PRAKASH, J.]

The petitioner is the wife of the detenu Sivaperumal @ Sathiya, S/o.Saravanan, aged 23 years. The detenu has been detained by the third respondent by his order in Memo No.15/DM/RO/D2/PPASAA/2021 dated 20.04.2021, holding him to be a "Dangerous Person", as contemplated under Section 3(1) of the Puducherry Prevention of Anti-Social Activities Act, 2008 (Act No.10 of 2010). 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 (Puducherry) appearing 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 appearing 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, no materials were placed before the detaining authority as to whether the detenu was in remand or otherwise at the time of clamping the detention order and the subjective satisfaction arrived at by the detaining authority is not proper. Therefore, the impugned order of detention is vitiated in law.

4. A perusal of the booklet would go to show that no materials were placed before the detaining authority as to whether the detenu was in remand or otherwise at the time of clamping the detention order, which shows non-application of mind on the part of the detaining authority in passing the order



of detention. 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 Memo No.15/DM/RO/D2/PPASAA/2021 dated 20.04.2021, passed by the third respondent is set aside. The detenu, viz., Sivaperumal @ Sathiya, S/o.Saravanan, aged 23 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

nsd
To

- 1.The Secretary to Government,
Ministry of Home Affairs,
Department of Internal Security,
North Block, New Delhi - 100 001.
- 2.The Secretary to Government,
Union Territory of Puducherry,
Home Department,
Secretariat,
Puducherry.
- 3.The District Magistrate
-cum-Authorized Officer,
1st Floor, New Revenue Complex,
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- 4.The Senior Superintendent of Police (L & O),
Puducherry.
- 5.The Inspector of Police,
Grand Bazaar Police Station,
Puducherry.
- 6.The Chief Superintendent of Jail,
Central Prison, Kalapet,
Puducherry.



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

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8.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.M.P.Yuvaraj, Advocate Sr.NO. 1425

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EV(CO)

A.SK(11.01.2022)