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H.C.P.No.1154 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mr. Justice **RMT.TEEKAA RAMAN**

H.C.P.No.1154 of 2022

Prabaharan

.. Petitioner

Vs

- 1.The State of Tamil Nadu
Rep. by Secretary to Government
Home, Prohibition & Excise Department
Fort St. George
Chennai – 600 009.
- 2.The District Magistrate & District Collector
Namakkal District, Namakkal
- 3.The Inspector of Police
Nallipalayam Police Station, Namakkal District
- 4.The Superintendent
Central Prison, Salem
- 5.The Superintendent of Police
Namakkal

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records relating to the detention order passed by the 2nd respondent on 22.04.2022 in C.M.P.No.10/DRUG OFFENDER/2022 [M1] and to quash the same and direct the respondents to produce the body of the detenu Elavarasan,



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aged about 29 years, S/o.Prabaharan, before this Court and set him at liberty, now detained at Central Prison, Salem.

For Petitioner : Mr.C.Iyyapparaj

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

ORDER

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

The petitioner is the father of the detenu *viz.*, Elavarasan, aged about 29 years, S/o.Prabaharan. The detenu has been detained by the second respondent by his order in C.M.P.No.10/DRUG OFFENDER/2022 [M1] dated 22.04.2022, holding him to be a "DRUG OFFENDER", as contemplated under Section 2(e) of 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. Though learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly



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focused his argument on the ground that the detaining authority, while detaining the detenu, has not furnished the legible copies of the documents relied on by him. This deprived the detenu from making effective representation. Therefore, on this sole ground, the detention order is liable to be quashed.

4. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially the document viz., Form-90 available at Page Nos.38 and 39 of the booklet, it is clear that the detaining authority, by providing illegible copies of the documents, has taken away the rights of detenu to effectively defend himself against his detention. Thus, the impugned detention order is liable to be set aside on this ground.

In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.10/DRUG OFFENDER/2022 [M1] dated 22.04.2022, passed by the second respondent is set aside. The detenu, viz., Elavarasan, aged about 29 years, S/o.Prabaharan, is directed to be released forthwith unless his detention is required in connection with any other case.

(P.N.P., J.) (T K R, J.)



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P.N.PRAKASH, J.
and
RMT.TEEKAA RAMAN, J.

nsd

To

- 1.The Secretary to Government
Home, Prohibition & Excise Department
Fort St. George
Chennai – 600 009.
- 2.The District Magistrate & District Collector
Namakkal District, Namakkal
- 3.The Inspector of Police
Nallipalayam Police Station
Namakkal District
- 4.The Superintendent
Central Prison, Salem
- 5.The Superintendent of Police
Namakkal
- 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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