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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2022

Coram

THE HONOURABLE MR. JUSTICE P.N.PRAKASH  
and  
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

H.C.P.No.1285 of 2021

Anjalai  
W/o.Rajamanickam

.. Petitioner/  
Mother of Detenue

Vs.

1. State of Tamil Nadu  
represented by the Secretary,  
Home, Prohibition and Excise Department,  
Fort St.George, Chennai - 600 009.
2. The Commissioner of Police,  
Greater Chennai,  
O/o.The Commissioner of Police (Goondas Section),  
Vepery, Chennai District.
3. The Superintendent of Prison,  
Central Prison,  
Puzhal, Chennai District.
4. The Inspector of Police,  
S-10, Pallikaranai Police Station,  
Chennai District.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records relating to the detention order vide Memo BCDFGISSSV No.187/2021 dated 21.07.2021 passed by the second respondent and quash the same and direct the respondents herein to produce the petitioner's son, namely, S.R.Rajasekar s/o.Rajamanickam, aged 35 years, who is presently undergoing detention in the Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.W.Camyless Gandhi

For Respondents: Mr.M.Babu Muthu Meeran  
Additional Public Prosecutor



ORDER

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

The petitioner is the mother of the detenu viz., S.R.Rajasekar s/o.Rajamanickam, aged 35 years. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.187/2021 dated 21.07.2021, holding him to be a "Goonda", as contemplated under Section 2(f) 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. Though several grounds have been raised, learned counsel for the petitioner mainly focused his arguments on the ground that the remand extension order pertaining to the ground case placed before the detaining authority has not been furnished to the detenu, which caused great prejudice to the detenu and he was prevented from making an effective representation for consideration of the authorities concerned. Therefore, the impugned order of detention is vitiated in law.

4. The learned Additional Public Prosecutor strongly opposed the habeas corpus petition by filing his counter.

5. A perusal of the booklet would go to show that the remand extension order pertaining to the ground case placed before the detaining authority has not been enclosed in the booklet furnished to the detenu. Therefore, non-furnishing of the above material would obviously deprive of his opportunity to make effective representation and hence, we are of the opinion that the detention order is liable to be quashed on this ground.

In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.187/2021 dated 21.07.2021 passed by the second respondent is set aside. The detenu, viz., S.R.Rajasekar s/o.Rajamanickam, aged 35 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



gm

To

1. The Secretary,  
Home, Prohibition and Excise Department,  
Fort St.George, Chennai - 600 009.
2. The Commissioner of Police,  
Greater Chennai,  
O/o.The Commissioner of Police (Goondas Section),  
Vepery, Chennai District.
3. The Superintendent of Prison,  
Central Prison,  
Puzhal, Chennai District.
4. The Inspector of Police,  
S-10, Pallikaranai Police Station,  
Chennai 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.

H.C.P.No.1285 of 2021

SKM(CO)  
CT 30/03/2022