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H.C.P.No.1311 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19..12..2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and

The Honourable Mr. Justice **N.ANAND VENKATESH**

Habeas Corpus Petition No.1311 of 2022

Kalimuthu

..... Petitioner

-Versus-

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.

2.The Commissioner of Police,
Tambaram City.

3.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai 66.

4.The Inspector of Police, L & O,
S-5, Pallavaram Police Station,
Chennai.

.... Respondents



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Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 13.05.2022 in Memo No.73/BCDFGISSSV/2022 against the petitioner son Muthu, male aged 21 years, S/o.Kalimuthu, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondent to produce the detenu before the Hon'ble Court and set him at Liberty.

For Petitioner : Mr.S.Senthilvel

For Respondents : Mr.R.Muniyapparaj,
Additional Public Prosecutor

ORDER

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

The petitioner is the father of the detenu viz., Muthu. The detenu has been detained by the second respondent by his order in in Memo No.73/BCDFGISSSV/2022 dated 13.05.2022, holding him to be a "Goonda", as contemplated under Section 2(f) 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 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 the learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused on the ground that the detenu has been provided with an illegible copy of the observation mahazar in the ground case. This deprived the detenu from making effective representation. Therefore, on this 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, Page Nos.161 & 163 of the booklet, it is clear that the copy of the observation mahazar in the ground case that has been given to the detenue is illegible and not readable. Thus the impugned detention order is liable to be set aside on this ground.



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In the result, the Habeas Corpus Petition is allowed and the order of detention in Memo No.73/BCDFGISSSV/2022 dated 13.05.2022 passed by the second respondent is set aside. The detenu viz., Muthu, Son of Kalimuthu, is directed to be released forthwith unless his detention is required in connection with any other case.

(P.N.P., J.) (N.A.V.,J.)
19..12..2022

Index: Yes/No
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To

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1. The Principal Secretary to Government,
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2. The Commissioner of Police,
Tambaram City.
3. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai 66.
4. The Inspector of Police, L & O,
S-5, Pallavaram Police Station,
Chennai.
5. The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai – 9.
6. The Public Prosecutor, High Court, Madras.



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AND
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