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H.C.P.No.1538 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2022

Coram

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

The Honourable Mr. Justice **A.A.NAKKIRAN**

H.C.P.No.1538 of 2021

Baby

.. Petitioner

Vs.

State represented by

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,
Chennai-9.

2.The District Magistrate and District Collector,
Namakkal District, Namakkal.

3.The Superintendent of Police,
Namakkal District, Namakkal.

4.The Superintendent of Prison,
Central Prison,
Salem.

5.The Inspector of Police,
Ayilpetty Police Station,
Namakkal District.

.. Respondents



H.C.P.No.1538 of 2021

Petition filed under Article 226 of the Constitution of India to

issue a writ of Habeas Corpus calling for the records in C.M.P.No.8/Bootlegger/2021[M1] dated 03.09.2021 on the file of the District Magistrate and District Collector, Namakkal District and quash the same as illegal and direct the respondent to produce the detenu Selvaraj, S/o.Kandasamy, aged about 47 years, now confined at the Central Prison, Salem and set him at liberty.

For Petitioner : Ms.S.Sengkodi

For Respondents : Mr.M.Babu ,
Addl. Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu Selvaraj, S/o.Kandasamy, aged about 47 years. The detenu has been detained by the second respondent by his order in C.M.P.No.8/Bootlegger/2021[M1] dated 03.09.2021, holding him to be a "Bootlegger", as contemplated under Section 2(b) 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 his argument on the ground that the arrest intimation has not been fully translated in vernacular language. He further submitted 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 these grounds, the detention order is liable to be quashed.

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

5. On consideration of the submissions made on either side and upon perusal of the documents available on record especially Page Nos.55 and 56 of the booklet, it is clear that the arrest intimation has



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not been fully translated in vernacular language. 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.8/Bootlegger/2021[M1] dated 03.09.2021, passed by the second respondent is set aside. The detenu, viz., Selvaraj, S/o.Kandasamy, aged about 47 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(P.N.P.,J.) (A.A.N.,J.)
28.02.2022

Index: Yes/No
nsd



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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,
Chennai-9.
- 2.The District Magistrate and District Collector,
Namakkal District, Namakkal.
- 3.The Superintendent of Police,
Namakkal District, Namakkal.
- 4.The Superintendent of Prison,
Central Prison,
Salem.
- 5.The Inspector of Police,
Ayilpetty Police Station,
Namakkal District.
- 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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and
A.A.NAKKIRAN,J.

nsd

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