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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2022

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

H.C.P.NO.2125 OF 2021

J.Murugan ...Petitioner / Father of Detenue
Vs.

- 1.The Secretary to Government,
Prohibition and Excise Department,
Fort St.George, Chennai.
- 2.The District Collector and District Magistrate,
Tiruvannamalai District,
Tiruvannamalai.
- 3.The Superintendent of Police,
Tiruvannamalai District,
Tiruvannamalai.
- 4.The Superintendent of Prison,
Central Prison, Vellore - 632 004.
- 5.The Inspector of Police,
Pudhupalayam Police Station,
Chengam Taluk,
Tiruvannamalai District.

...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 in DO.No.106 of 2021/C2 dated 11.11.2021 and quash the same and directing the respondents to produce the corpus of the detenu namely M.Elumalai (M/27) s/o.J.Murugan No.58, New Colony, Pudhupalayam Village, Chengam Taluk, Tiruvannamalai District (detained in Central prison (men) Vellore) before this Court and set him at liberty.

For Petitioner : Mr.S.Kumara Devan

For Respondents : Mr.E.Raj Thilak
Addl. Public Prosecutor



ORDER

S.VAIDYANATHAN, J.
and
A.D.JAGADISH CHANDIRA, J.

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The petitioner is the father of the detenu Elumalai s/o.J.Murugan, aged about 27 years. The detenu has been detained by the second respondent by his order in DO.No.106/2021-C2 dated 11.11.2021, 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.

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. The learned counsel for the petitioner assailed the order of detention on the ground that the representation of the detenu has not been considered by the Government so far. Hence the order of detention is liable to be quashed.

4. The learned Additional Public Prosecutor appearing for the detaining authority would submit that the representation on behalf of the petitioner has not been considered so far.

5. The non consideration of the representation vitiates the order of detention. Hence the impugned order of detention is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in DO.No.106/2021-C2 dated 11.11.2021, passed by the second respondent is set aside. The detenu, viz., Elumalai, son of J.Murugan, aged about 27 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

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To

1.The Secretary to Government,
Prohibition and Excise Department,
Fort St.George, Chennai.



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

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

4.The Superintendent of Prison,
Central Prison,
Vellore - 632 004.

5.The Inspector of Police,
Pudhupalayam Police Station,
Chengam Taluk,
Tiruvannamalai 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.

+lcc to Mr.S.Kumara Devan, Advocate Sr.No.35195

H.C.P.No.2125 of 2021

AK-II (CO)
RVM(20/06/2022)