



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 15.06.2022
Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mrs. Justice **R.HEMALATHA**

H.C.P.[MD]No.502 of 2022

Selvam .. Petitioner / Detenu
Vs.

1.The State of Tamil Nadu,
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

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

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records connected with the detention order passed in H.S.(M) Confdl.No.155/2021 dated 21.10.2021 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely Selvam, aged about 39 years, S/o.Madasamy, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

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

The petitioner is the detenu viz., Selvam, son of Madasamy, aged about 39 years. The detenu has been detained by the second respondent by his order in Memo H.S.(M) Confdl.No.155/2021 dated 21.10.2021, 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 and we have also perused the records carefully.

3.The detenu was arrested by the police on 02.10.2021 in Crime No.548 of 2021, registered before the Kayathar Police Station and was produced before the learned Judicial Magistrate No.II, Kovilpatti. Though several grounds have been raised, learned counsel for the petitioner mainly focused his arguments on the ground that the initial remand order pertaining to the ground case placed before the detaining authority has not been furnished to the detenu whereas the remand proceedings have been relied upon by the detaining authority, which caused great prejudice to the detenu and he has been 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 initial remand 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 materials 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 H.S.(M) Confdl.No.155/2021 dated 21.10.2021, passed by the second respondent is set aside. The detenu, viz., Selvam, son of Madasamy, aged about 39 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

MR



To

- 1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.
- 4.The Joint Secretary to Government,
Public (Law & Order)
Fort St.George,
Chennai-9.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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SS(24/06/2022) 3P 6C