

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.10.2022**

CORAM

THE HON'BLE MRS JUSTICE J. NISHA BANU
AND
THE HON'BLE MR JUSTICE N. ANAND VENKATESH

H.C.P.(MD)No.641 of 2022

D.Palaniammal

... Petitioner /Mother of the Detenu

Vs.

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Secretariat, For St.George,
Chennai-600 009.

2.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City, Madurai.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai.

...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 of the second respondent in No.09/BCDFGISSSV/2022 dated 22.02.2022 and quash the same and direct the respondents to produce the detenu by name Karthick @ Mariyappan, son of Devadass, aged 25

years, now detained in Madurai Central Prison before this Court and set him at liberty.

For Petitioner : Mr.K.M.Prisiella Jancy

For Respondents : Mr.A.Thiruvadikumar

Additional Public Prosecutor

ORDER

J. NISHA BANU,J.

and

N. ANAND VENKATESH,J.

The petitioner is the mother of the detenu viz., Karthick @ Mariyappan, aged about 25 years, S/o.Devadass. The detenu has been detained by the second respondent by his order in No. 09/BCDFGISSSV/2022, dated 22.02.2022 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.

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 in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that there is statutory violation, wherein the arrest intimation was not given to the near relative of the detenu. The learned counsel brought to the notice of this Court that in the petition filed praying for remand, there is a reference to the effect that the arrest was intimated to the mother and the mobile number was also added subsequently in handwritten. The arrest card has not been filed in the booklet and that by itself shows that the intimation about the arrest was not made to the near relative of the detenu and hence, the arrest itself is illegal. Hence, the learned counsel submitted that mandatory requirements of informing the arrest was not made to the relative of the detenu and therefore, the detention order is vitiated on that ground also.

4.The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. He would further submit that the arrest of the detenu has been intimated to the mother of the detenu through SMS.

5. We have carefully considered the submission of the learned counsel for the petitioner. We find that in the petition submitted before the learned Judicial Magistrate seeking for remand, it is mentioned as if the arrest was intimated to the mother of the detenu. However, the mobile number has been inserted in handwritten and there is nothing to show that this mobile number stands in the name of the mother of the detenu. The arrest card has not been furnished and that itself shows that there is a serious illegality in the arrest made by the respondent police. There is statutory violation and hence, the detention order passed by the respondent is liable to be interfered by this Court on this ground.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in 09/BCDFGISSSV/2022 dated 22.02.2022 passed by the second respondent is set aside. The detenu, viz., Karthik @ Mariyappan, aged about 25 years, S/o.Devadass, is directed to be released forthwith unless his detention is required in connection with any other case.

(J.N.B.,J.) (N.A.V.,J.)
19.10.2022

Index : Yes/No
Internet : Yes
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To:

- 1.The Principal Secretary to Government,
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- 2.The Commissioner of Police,
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- 3.The Superintendent of Prison,
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Madurai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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