



HCP(MD)No.780 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.10.2022

CORAM

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

H.C.P.(MD)No.780 of 2022

Thamayanthi

... Petitioner /Mother of the Detenue

Vs.

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

2.The District Collector and District Magistrate,
Maruthupandiar Nagar,
Sivagangai,
Sivagangai District.

3.The Inspector of Police,
Sivagangai Town Police Station,
Sivagangai District.

4.The Superintendent of Prison,
Central Prison,
Madurai,
Madurai District.

...Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to direct the respondents herein to produce the detenu namely Sakthivel aged about 25 yrs, S/o.Muthukumar, who is son of the petitioner and who is termed as Goonda and who is now detained in the fourth respondent prison and to call for the entire records in relating to the impugned detention order in Cr.M.P.No.19/Goonda/2022 dated 21.04.2022 of the second respondent and to set aside the same and consequently to set the detenu at his liberty.

For Petitioner : Mr.M.S.Jeyakarthish

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., Sakthivel aged about 25 yrs, S/o.Muthukumar. The detenu has been detained by the second respondent by his order in Cr.M.P.No.19/Goonda/2022 dated 21.04.2022 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. Hence, the learned counsel submitted that mandatory requirements of informing the arrest were 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 uncle of the detenu through SMS.

5.We went through the arrest intimation report and we find that the arrest intimation has been sent through an SMS through one mobile number.



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Neither the mobile number that has been shown is belonging to the brother of the detainee, nor the signature of the brother has been obtained for having intimated the arrest. In view of the same, there is a statutory violation of passing the detention order and the same can be taken into consideration to interfere with the detention order.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.19/Goonda/2022 dated 21.04.2022 passed by the second respondent is set aside. The detainee, viz., Sakthivel aged about 25 yrs, S/o.Muthukumar, 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.)
28.10.2022

Index : Yes/No
Internet : Yes
sm



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Madurai Bench of Madras High Court,
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