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H.C.P.(MD)



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.09.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

and

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

H.C.P.(MD)No.1555 of 2022

Mahalakshmi

.. Petitioner/wife of the detenu

Vs.

1.The State of Tamil Nadu,
rep. by its Additional Chief Secretary to Government,
Home Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

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

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

.. Respondents

PRAYER: 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 second respondent in H.S.(M).Confdl. No.154/2021 dated 21.10.2021 and quash the same and direct the respondents to produce the detenu Thiru.Madasamy @ Gopi, Son of Perumal, Male aged 35, who is detained at Central Prison, Palayamkottai before this Honourable Court and set him at liberty

For Petitioner

: Mr.R.Pon Karthikeyan

For Respondents

: Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

J.NISHA BANU, J.

and

N.ANAND VENKATESH, J.

The petitioner is the wife of the detenu viz., Madasamy @ Gopi, Son of Perumal, Male aged 35 years. The detenu has been detained by the second respondent by his order in H.S.(M).Confdl. No.154/2021 dated 21.10.2021 holding him to be a "Goonda", as

<https://www.mhc.in.gov.in/judis>



contemplated under Section 2(f) of Tamil Nadu Act 14 of 1950. 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 detenu was arrested by the police on 01.10.2021 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. 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.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in H.S.(M).Confdl. No.154/2021 dated 21.10.2021, passed by the second respondent is set aside. The detenu, viz., Madasamy @ Gopi, Son of Perumal, Male aged 35 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(C.O)

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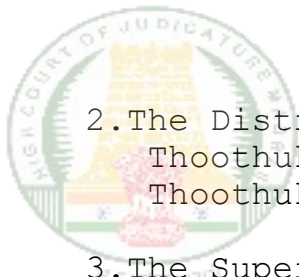
Sub Assistant Registrar(CS)

pm

To

1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home Prohibition and Excise Department,
Fort St. George,

<https://www.mhcn.gov.in/judis> - 600 009.



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

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

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.

H.C.P. (MD) No.1555 of 2022

23.09.2022

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