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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) No.1984 of 2021

R.Sudha ... Petitioner / Wife of the Detenu

-Vs-

1.The Superintendent of Police,
Tirunelveli District.

2.The Inspector of Police,
Pazhavur Police Station,
Tirunelveli District.

3.The Commandant,
148 BN BSF, Raninagar,
PO-Patkata, Jalpaiguri District,
West Bengal State, Pin Code-735133.

...Respondents

(R3 is impleaded as per order of this Court dated 06.01.2022 in CrI.M.P. (MD)No.142 of 2022 in H.C.P. (MD)No.1984 of 2021)

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents to produce the body or in person of the detainee, namely, T.Ramesh, S/o.C.Thangadurai, aged 38 years, the petitioner's husband before this Court and set him at liberty.

For Petitioner : Mr.Mani Ananth
For Mr.C.Susi Kumar

For R1 and R2 : Mr.T.Senthil Kumar,
Additional Public Prosecutor.

For R3 : Mrs.C.Victoria Gowri,
Assistant Solicitor General



ORDER

R.SUBRAMANIAN, J.
AND
N.SATHISH KUMAR, J.

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The petitioner seeks production of the person of her husband, namely, Ramesh, who was a Constable with the Border Security Force, aged about 38 years. According to the petitioner, her husband, who had come on leave, had left to join duty at Jalpaiguri on 28.08.2021. He had reached Sealdah Railway Station on 30.08.2021 and had intimated his wife that he is proceeding to his unit in Coach No.4 of Silchar Special Express. Thereafter, he could not be contacted and his mobile phones were switched off. The Border Security Force Authorities had also disclosed that they have not received any information about the petitioner's husband. Thereafter, the petitioner had lodged a complaint with the local police on 15.09.2021. Complaining inaction on the part of the police, the petitioner has come up with this Habeas Corpus Petition.

2.Heard Mr.Mani Ananth, learned counsel for Mr.C.Susi Kumar, learned counsel for the petitioner, Mr.T.Senthil Kumar, learned Additional Public Prosecutor for the respondents 1 and 2 and Mrs.C.Victoria Gowri, learned Assistant Solicitor General for the third respondent.

3.Mr.T.Senthil Kumar, learned Additional Public Prosecutor appearing for the respondents 1 and 2 would submit that the detainee was seen lastly at Burdwan Railway Station at around 8.00 p.m., on 30.08.2021 by his colleague, namely, Rajalingam, who was travelling in the same compartment in the same train. According to his colleague, the detainee had alighted at Burdwan Railway Station and did not board train. When he called the detainee, he had told him that he would join later.

4.The third respondent has filed counter affidavit, setting out the efforts made by the Border Security Force to trace the detainee.

5.The learned Additional Public Prosecutor for the respondents 1 and 2 would also submit that the local police are also making all efforts in co-ordination with the police at Kotwali Police Station, Jalpaiguri, to trace the detainee.

6.From the counter filed by the Deputy Inspector General, Border Security Force, Jalpaiguri and the submissions of the learned Additional Public Prosecutor made upon instructions, we find that the authorities are in co-ordination and they are taking all efforts to secure the detainee. It appears to be a case of abandonment of service and not one of illegal detention.



7.Hence, we do not see any reason to keep this Habeas Corpus Petition pending. Therefore, this Habeas Corpus Petition is closed with a direction to the jurisdictional police to continue the investigation to its logical conclusion and keep the petitioner inform about the progress of the investigation.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Myr

To

- 1.The Superintendent of Police,
Tirunelveli District.
- 2.The Inspector of Police,
Pazhavur Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Assistant Solicitor General of India,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD)No.1984 of 2021

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MGJ(11.05.2022) 3P 5C