



WEB COPY



H.C.P.No.889 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.01.2023

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

H.C.P.No.889 of 2022

Jothy

.. Petitioner

Vs.

1.The Secretary to Government,
Government of Tamil Nadu (Home)
Prohibition and Excise Department,
Fort St.George,
Chennai.

2.The District Collector and District Magistrate,
Vellore District, Vellore – 9.

3.The Superintendent of Police,
Vellore District, Vellore.

4.The Superintendent,
Central Prison,
Vellore District, Vellore.

5.The Inspector of Police,
Latheri Police Station,
Latheri, Vellore District.

.. Respondents



H.C.P.No.889 of 2022

Petition filed under Article 226 of the Constitution of India, praying to

issue a WRIT OF HABEAS CORPUS to call for the records relating to the impugned order C3/D.O.No.52/2022 dated 02.05.2022 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce viz. Rajasekaran, S/o.Arumugam, aged about 26 years, now confined at the Central Prison, Vellore, before this Court and set him at liberty.

For Petitioner : Mr.G.Vinodhkumar

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu viz., Rajasekaran, S/o.Arumugam, aged about 26 years. The detenu has been detained by the 2nd respondent by his order in C3/D.O.No.52/2022 dated 02.05.2022, holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) 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, learned counsel for the petitioner mainly focused his arguments on the ground that the arrest intimation pertaining to the ground case placed before the detaining authority has not been furnished to the detenu, 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 submitted that the detenu was arrested on 16.03.2022 and on completion of the investigation, charge sheet was filed before the Special Court for the Exclusive Trial of Cases under the POCSO Act, Vellore, on 12.04.2022 on time and the same was taken on file as Spl.C.C.No.116 of 2022 and the victim has been examined.



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5. A perusal of the booklet would go to show that the arrest intimation 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 material 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 C3/D.O.No.52/2022 dated 02.05.2022, passed by the second respondent is set aside. The detenu viz., Rajasekaran, S/o.Arumugam, aged about 26 years, is directed to be released forthwith, unless his detention is required in connection with any other case.

J.]

nsd

[P.N.P., J.]

[N.A.V.,

09.01.2023



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To

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- 2.The District Collector and District Magistrate,
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- 3.The Superintendent of Police,
Vellore District, Vellore.
- 4.The Superintendent,
Central Prison,
Vellore District, Vellore.
- 5.The Inspector of Police,
Latheri Police Station,
Latheri, Vellore District.
- 6.The Joint Secretary to Government,
Public, Law and Order Department,
Secretariat, Chennai-9.
- 7.The Public Prosecutor,
High Court, Madras.



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P.N.PRAKASH, J.
AND
N.ANAND VENKATESH, J.

nsd

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