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H.C.P.No.1026 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.No.1026 of 2023

T.Ramesh
S/o.Thangaraj

.. Petitioner

Vs.

1. The Superintendent of Police
Office of the Superintendent of Police
Thiruvarur District
Thiruvarur.

2. The Inspector of Police
Thiruthuraipoondi Police Station
Thiruthuraipoondi.

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to produce the petitioner's son Jayaprakash.R, male, aged 22 years and set him at liberty.

For Petitioner	:	Mr.S.Sekar
For Respondents	:	Mr.E.Raj Thilak Additional Public Prosecutor

Page Nos.1/6



H.C.P.No.1026 of 2023

ORDER

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[Order of the Court was made by M.SUNDAR, J.,]

This order will now dispose of the captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of convenience and clarity].

2. The central theme of the captioned HCP is, petitioner's son one 'R.Jayaprakash, aged 22 years' [hereinafter 'absentee' for the sake of convenience and clarity] is missing from 14.05.2023, a complaint in this regard has been lodged by the petitioner with jurisdictional police (second respondent) the same has been taken on record as Crime No.400 of 2023 dated 16.05.2023 on the file of second respondent and the absentee has not been located as yet.

3. Issue notice.

4. Mr.E.Raj Thilak, learned Additional Public Prosecutor accepts notice for both respondents and submits, on instructions, that pursuant to the aforementioned complaint dated 16.05.2023 (Crime No.400 of 2023),

Page Nos.2/6



H.C.P.No.1026 of 2023

investigation was kick started, investigation thus far does not show any trappings of illegal custody or unlawful detention and the jurisdictional police is hopeful of locating the absentee in four weeks from today i.e., by 17.07.2023 by forming a special team.

5. Let the investigation proceed in accordance with law uninfluenced by this HCP.

6. On the absentee being located, let the absentee be produced before the jurisdictional Magistrate with prior intimation to the petitioner (absentee's father). The jurisdictional Magistrate to proceed in accordance with law. We are informed that the jurisdictional Magistrate is Judicial Magistrate, Thiruthuraipoondi.

7. As regards the allegation that the petitioner was compelled by the police to write in the complaint that the absentee is mentally retarded, learned Prosecutor has placed before us what according to learned Prosecutor is Unique Disability ID issued by the Government of India qua



H.C.P.No.1026 of 2023

absentee. As we are relegating the matter to jurisdictional magistrate, we express no opinion on the same and leave all questions open to be canvassed before the jurisdictional magistrate.

8. If there is undue delay or if there is any other development, we make it clear that all the rights and contentions of the petitioner or anyone concerned for the absentee are preserved and left open for being raised in collateral or similar proceedings. Further we make it clear that it is open to the petitioner to come back to this Court not only with a similar but even same prayer if the need arises. All the rights of all concerned in this regard are preserved.

9. Captioned HCP is disposed of with the aforementioned observations / directives. There shall be no order as to costs.

(M.S.,J.)

(R.S.V.,J.)

19.06.2023

Index : Yes / No

Speaking / Non-speaking order

Neutral Citation : Yes / No

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Page Nos.4/6



H.C.P.No.1026 of 2023

To
WEB COPY

1. The Superintendent of Police
Office of the Superintendent of Police
Thiruvarur District
Thiruvarur.
2. The Inspector of Police
Thiruthuraipoondi Police Station
Thiruthuraipoondi.
3. The Public Prosecutor
High Court, Madras.



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H.C.P.No.1026 of 2023

M.SUNDAR, J.,
and
R.SAKTHIVEL, J.,

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H.C.P.No.1026 of 2023

19.06.2023

Page Nos.6/6