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H.C.P.No.1038 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2023

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN

H.C.P.No.1038 of 2023

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Petitioner

v.

1. The Secretary to the Government
Home, Prohibition & Excise (XVI) Department
Secretariat
Chennai 600 009

2. The District Collector and District Magistrate
Office of the District Collector
Thiruvarur District

3. The Superintendent of Police
O/o Superintendent of Police
Thiruvarur District

4. The Superintendent of Prison
Central Prison, Trichy

5. The Inspector of Police
Peralam Police Station
Peralam, Thiruvarur District

..

Respondents



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Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, calling for the entire records connected with the detention order in C.O.C.No.42 / 2023 on the file of the Respondent No.2 and quash the same and direct the respondents to produce the body and person of petitioner's son one named Mr.Jayakumar @ Kuttiyan, S/o Kalaivanan aged about 29 years now confined at Central Prison, Trichy before this Hon'ble Court and set him at liberty forthwith.

For Petitioner :: Mr.P.Muthamizh Selvakumar

For Respondents :: Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by Mr.C.Aravind, Advocate

ORDER

(Order of the Court was made by S.S.SUNDAR,J.)

The petitioner, who is the mother of the detenu, namely, Mr.Jayakumar @ Kuttiyan, aged 29 years, S/o Kalaivanan, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 20.05.2023 slapped on her son, branding him as 'Goonda' under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas,



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Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum
Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. Though several grounds are raised by the petitioner, learned counsel appearing for the petitioner pointed out before this Court that the detenu was not furnished with the copy of bail order in CrI.O.P.No.9350 of 2021, which was relied upon by the detaining authority. He further submitted that the detenu was furnished with an order passed in the relaxation petition subsequently filed by the accused in similar case in CrI.M.P.No.8148 of 2021.

4. We have confirmed the statement of the learned counsel for petitioner from the booklet that was supplied to the detenu. Since the detenu was not even furnished with a copy of the bail order granted to the accused in similar case, this Court is of the view that the detenu is deprived



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of an opportunity to make an effective representation. As held by the Hon'ble Supreme Court in several cases non-supply of such vital document to the detenu is fatal.

5. In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 20.05.2023 in C.O.C.No.42 / 2023 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Mr.Jayakumar @ Kuttiyan, S/o Kalaivanan, aged 29 years, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

Index : yes/no

(S.S.S.R.,J.)

(S.M.,J.)

Neutral citation : yes/no

30.10.2023

ss

To

1. The Secretary to Government
Home, Prohibition & Excise Department
Secretariat
Chennai 600 009
2. The District Collector and District Magistrate



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Thiruvarur District

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Central Prison, Trichy
5. The Inspector of Police
Peralam Police Station
Peralam, Thiruvarur District
6. The Public Prosecutor
High Court, Madras



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