



HCP No.1513 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2023

Coram

**THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH**

H.C.P.No.1513 of 2022

Mamagi Kani
W/o.Abdul Rahman

... Petitioner

Vs.

- 1.State of Tamil Nadu
Rep. by The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Thiruvarur District,
District Collector Office Building,
Thiruvarur – 610 004.
- 3.The Superintendent of Police,
Thiruvarur District,
District Collector Office Building & Back Side,
Thiruvarur – 610 004.
- 4.The Superintendent of Prison,
Central Prison, Tiruchirapalli.
Tiruchirapalli – 620 020.



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5. The Inspector of Police,
All Women Police Station, Thiruvarur,
Thiruvarur – 610 004.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records in Memo C.O.C.No.03/2022 dated 23.03.2022 on the file of second respondent herein to set aside the same and direct the respondents to produce the detenu i.e., the body of Sethappa @ Mohamed Sheik Dawood, S/o.Abdul Rahman, male, aged about 23 years the detenu detained under Tamil Nadu Act 14 of 1982 in detention order Memo No.C.O.C.No.03/2022 dated 23.03.2022 herein now confined in Central Prison, Tiruchirapalli before this Court and set him at liberty.

For Petitioner : Mr.S.Jeyakumar

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Made by **P.N.PRAKASH, J.**]

The petitioner is the mother of the detenu, Sethappa @ Mohamed Sheik Dawood S/o.Abdul Rahman, aged 23 years. The detenu has been detained by the second respondent by his order in No.C.O.C.No.03/2022



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dated 23.03.2022, 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 learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the arrest intimation pertaining to the ground case has not been properly translated in vernacular language. This deprived the detenu from making effective representation. Therefore, on these grounds, the detention order is liable to be quashed.

4. The learned Additional Public Prosecutor appearing for the State submitted that the detenu was arrested on 24.01.2022 and remanded to



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judicial custody. The investigation was completed and final report has been filed on time on 13.03.2022 before the Mahila Court, Thiruvavarur and the same was taken on file in Spl.S.C.No.15 of 2022 and the case is now at the stage of examination of the victim girl on 06.01.2023.

5. It is made clear that the Court below shall bear in mind the mandate provided under Section 33(5) of the POCSO Act and shall ensure that the victim girl is cross-examined on the same day when she is examined-in-chief.

6. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially, Page Nos.15 & 16 of the booklet, it is clear that the arrest intimation pertaining to the ground case has not been properly translated in vernacular language. Thus, the impugned detention order is liable to be set aside on this ground.



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In the result, the Habeas Corpus Petition is allowed and the order of detention in No.C.O.C.No.03/2022 dated 23.03.2022, passed by the second respondent is set aside. The detenu, viz., Sethappa @ Mohamed Sheik Dawood S/o.Abdul Rahman, aged 23 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[PNP, J.] [NAV, J.]
03.01.2023

Index: Yes/No
gm/ssr

To

- 1.The Mahila Court, Thiruvarur
(Spl.S.C.No.15 of 2022)
- 2.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 3.The District Collector and District Magistrate,
Thiruvarur District,
District Collector Office Building,
Thiruvarur – 610 004.



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- 4.The Superintendent of Police,
Thiruvarur District,
District Collector Office Building & Back Side,
Thiruvarur – 610 004.
- 5.The Superintendent of Prison,
Central Prison, Tiruchirapalli.
Tiruchirapalli – 620 020.
- 6.The Inspector of Police,
All Women Police Station, Thiruvarur,
Thiruvarur – 610 004.
- 7.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai – 9.
- 8.The Public Prosecutor,
High Court, Madras.

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