



H.C.P.No.1238 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1238 of 2023

Anusuya

... Petitioner

Vs.

1.The State of Tamil Nadu represented by
The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai – 600 009.

2.The District Collector and District Magistrate,
Nagapattinam District.

3.The Superintendent of Police,
Nagapattinam District.

4.The Superintendent,
Central Prison,
Trichy District.

5.The Inspector of Police,
Kilvelur Police Station,
Nagapattinam District.

... Respondents



H.C.P.No.1238 of 2023

Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus to call for the entire records connected with the impugned order of detention passed by the 2nd respondent in C.O.C.No.21 of 2023 dated 18.05.2023 and quash the same, consequently, directing the respondents to produce the detenu, namely, the petitioner's husband Thiru.Rajesh @ Mathavan, aged about 32 years, detailed in the Central Prison, Trichy, before this Court and set him at liberty.

For Petitioner : Mr.T.Elumalai
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

The petitioner, wife of the detenu Thiru.Rajesh @ Mathavan, S/o.Rajendran, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 18.05.2023 slapped on her son, branding him as "Bootlegger" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders,



H.C.P.No.1238 of 2023

Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

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

3.Though several grounds have been raised by the petitioner, the learned counsel for the petitioner pointed out there is a delay in passing the order of detention. In the present case, though the detenu was arrested on 11.03.2023, the Detention Order was passed only on 18.05.2023.

4.The Hon'ble Supreme Court in the case of ***Sushantha Kumar Banik Vs. State of Tripura and Others*** reported in ***AIR 2022 SC 4715***, has dealt with similar situation and has held in paragraph No.21 as follows:-

“In the present case, the circumstances indicate that the detaining authority after the receipt of the proposal from the sponsoring authority was indifferent in passing the order of detention with greater promptitude. The “live and proximate link” between



the grounds of detention and the purpose of detention stood snapped in arresting the detenu. More importantly the delay has not been explained in any manner & though this point of delay was specifically raised & argued before the High Court as evident from Para 14 of the impugned judgment yet the High Court has not recorded any finding on the same.”

5.The Hon'ble Supreme Court was persuaded to allow the Appeal filed before it mainly on the ground that delay in passing the Order of Detention from the date of the proposal would snap the "live and proximate link" between prejudicial activities and the purpose of detention. Therefore, failure on the part of the Detaining Authority in explaining such delay as in the present case also is a valid ground for quashing the Detention Order.

6.The learned counsel for the petitioner further pointed out that, though the Detaining Authority has referred to the order passed in similar case, namely, CrI.M.P.No.2683 of 2021, dated 14.09.2021, the translated copy of the order relied upon by the Detaining Authority has not been furnished to the petitioner as seen from the Booklet. It is in this



circumstances, the learned counsel for the petitioner stated that serious prejudice has been caused to the petitioner for making effective representation.

7.The above issue is already covered by the Hon'ble Supreme Court in the case of ***Powanammal Vs. State of Tamil Nadu*** reported in **(1999) 2 SCC 413**, wherein the Hon'ble Supreme Court has held that what applies to a document, would equally apply to furnishing translated copy of the document in the language known to and understood by the detainee. In the said judgment, the Hon'ble Supreme Court has further held as follows :

"6.The short question that falls for our consideration is whether failure to supply the Tamil version of the order of remand passed in English, a language not known to the detainee, would vitiate her further detention.

.....

16. For the above reasons, in our view, the non-supply of the Tamil version of the English document, on the facts and in the circumstances, renders her continued detention illegal. We, therefore, direct that the detainee be set free forthwith unless she is required to be detained in



H.C.P.No.1238 of 2023

any other case. The appeal is accordingly allowed."

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8.It is seen from the Booklet that the order relied upon by the Detaining Authority is in English and the translated copy of the said document is not furnished to the detenu for making effective representation. Since a specific stand has been taken that serious prejudice is caused to the petitioner, this Court finds that the failure to furnish translated copy of the order passed in the similar case also vitiates the Detention Order.

9.In view of the aforesaid reasons, the detention order passed by the 2nd respondent dated 18.05.2023 in C.O.C.No.21 of 2023 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Thiru.Rajesh @ Mathavan, S/o.Rajendran, aged 32 years, is directed to be set at liberty forthwith unless he is required in connection with any other case.

(S.S.S.R., J.) (S.M., J.)
10.10.2023

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H.C.P.No.1238 of 2023

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

To

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High Court, Madras.



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H.C.P.No.1238 of 2023

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and
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