



H.C.P.No.1358 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 08.11.2023

CORAM :

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

H.C.P.No.1358 of 2023

Deivanai

W/o Arul @ Sasikumar

..

Petitioner

v.

1. The State of Tamil Nadu
rep.by its Secretary
Prohibition & Excise Department
Fort St.George
Chennai 600 009
2. The District Magistrate & District Collector
Villupuram District, Villupuram
3. The Superintendent of Police
Villupuram District
4. The Superintendent
Central Prison, Cuddalore
Cuddalore District
5. The Inspector of Police
Olakkur Police Station



H.C.P.No.1358 of 2023

Tindivanam Taluk
Villupuram 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 records relating to the order of detention dated 03.06.2023 bearing Rc.No.C2/38506/2023, on the file of the 2nd respondent and set aside the same and direct the respondents herein to produce the detenu viz., Mr.Arul @ Sasikumar (M/33 years), S/o Pachaiyappan, now confined in Central Prison, Cuddalore, before this Hon'ble Court and set him at liberty.

For Petitioner :: Mr.A.Ramalingam

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 wife of the detenu, namely, Arul @ Sasikumar, aged 33 years, S/o Pachaiyappan, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 03.06.2023 slapped on her husband, branding him as 'Goonda' under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law



H.C.P.No.1358 of 2023

Offenders, Drug Offenders, Forest Offenders, Goondas, 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 in the petition, the learned counsel appearing for petitioner brought to the notice of this Court that the remand order at page 123 of the booklet is not properly translated, by referring to page 125 of the translated version, the learned counsel pointed out the discrepancy in the identification mark of the detenu. The learned counsel also submitted that the order passed in similar case in CrI.M.P.No.5 of 2022 dated 03.02.2022 relied upon by the detaining authority is not similar to the case on hand. Referring to the fact that bail was granted to the accused in that case after recording the Covid-19 pandemic situation, the learned counsel submitted that the subjective satisfaction of the detaining authority suffers from non-application of mind. Therefore, the detention



order is liable to be quashed.

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4. This Court also finds that the translated version of the remand report at page 125 of the booklet contains the discrepancy in the identification mark of the detenu. This is a serious infirmity, in view of the judgment of the Hon'ble Supreme Court in the case of ***Powanammal Vs. State of Tamil Nadu, (1999) 2 SCC 413*** holding 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 detenu. 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 detenue, 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 detenue



H.C.P.No.1358 of 2023

be set free forthwith unless she is required to be detained in any other case. The appeal is accordingly allowed."

Similarly, as pointed out by the learned counsel for the petitioner, bail was granted to the accused in a similar case considering the situation that prevailed during the Covid-19 period and the said order cannot be relied upon by the detaining authority to arrive at the subjective satisfaction that the detenu is likely to be released on bail in the present case. For these reasons, this Court is inclined to quash the detention order.

5. Accordingly, the detention order passed by the 2nd respondent dated 03.06.2023 in No.C2/38506/2023 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Arul alias Sasikumar, S/o Pachaiyappan, aged 33 years, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

Index : yes/no
Neutral citation : yes/no

(S.S.S.R.,J.) (S.M.,J.)
08.11.2023

SS



H.C.P.No.1358 of 2023

To
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Chennai 600 009
2. The District Magistrate & District Collector
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6. The Public Prosecutor
High Court, Madras



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S.S.SUNDAR,J.

AND

SUNDER MOHAN,J.

SS

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