



HCP.No.1295/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1295/2023

Kalaivani

... 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



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Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus calling for the entire records connected with the impugned order of detention passed by the second respondent in C.O.C.No.22/2023 Dated 18.05.2023 and quash the same, consequently, directing the respondents to produce the detenu, the petitioner's husband namely, Thiru.Thavakkalai Suresh @ Suresh S/o.Rajendran, aged about 30 years, detained in the Central Prison, Trichy to produce him before the Hon'ble 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.,]

- (1)The petitioner, who is the wife of the detenu, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 18.05.2023 slapped on her husband, branding him as "Bootlegger" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, 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.



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(3) Though several grounds are raised in the petition, the learned counsel for the petitioner submitted that there is a delay in passing the order of detention. In the present case, though the detenu was arrested on 25.04.2023, 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.14 as follows:-

"In view of the above subject of the preventive detention, it becomes very imperative on the part of the detaining authority as well as the executing authorities to remain vigilant and keep their eyes skinned but to turn a blind eye in passing the detention order at the earliest from the date of the proposal and executing the detention order because any indifferent attitude on the part of the detaining authority or executing authority would defeat the very purpose of the preventive action and turn the detention order as a dead letter and frustrate the entire proceedings."

(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



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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) It is seen that Pages No.65, 90 and 95 of the Booklet furnished to the detenu have not been translated in the vernacular version. It is submitted by the learned counsel that the detenu had studied upto 9th standard and he cannot understand the English language without translation. Further, a perusal of the Booklet would show that the particulars in page No.64 in the booklet are illegible and could not be read at all. The non-furnishing of legible copies and non-translation in vernacular language would deprive the detenu of making effective representation to the authorities against the order of detention. Thus, the detention order is vitiated on these grounds and the same is liable to be quashed.

(7) In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 18.05.2023 in COC.No.22/2023 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Thavakkalai



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Suresh @ Suresh, S/o.Rajendran, aged about 30 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.]
04.10.2023

AP

Internet : Yes

To

- 1.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.
- 6.The Public Prosecutor,
High Court, Madras.



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S.S. SUNDAR, J.,
and
SUNDER MOHAN, J.,

AP

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