



HCP.No.1448/2023

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.1448/2023

Mangammal

... Petitioner

Vs.

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai – 600 009.
- 2.The District Collector and District Magistrate,
Kallakurichi District,
Kallakurichi.
- 3.The Superintendent of Police,
Kallakurichi,
Kallakurichi District.
- 4.The Superintendent of Prison,
Central Prison – Cuddalore,
Cuddalore District.
- 5.State rep. By its
The Inspector of Police,



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Kariyalur Police Station,
Kallakurichi District.

... Respondents

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, relating to the petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 06.05.2023 on the file of the second respondent herein made in proceedings Memo D.O.No.C2/08/2023 ,quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband namely Annamalai, S/o.Kanagaraj, aged 32 years before this Hon'ble High Court and set the petitioner's husband at liberty from detention, now the petitioner's husband detained at Central Prison, Cuddalore.

For Petitioner	: Mr.R.Prathapkumar
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 06.05.2023 slapped on her husband, branding him as "Drug Offender" 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].



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(2) Heard the learned counsel 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 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 15.04.2023, the Detention Order was passed only on 06.05.2023.

(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."



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(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) A perusal of the Booklet furnished to the detenu would reveal that the Remand Order which had been written by the learned Magistrate concerned, found in page No.42 of the Booklet and which is the vital document, has not been translated in the vernacular version. It is seen that the detenu is a daily wages coolie and he is an illiterate. The non-translation of the vital document 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 reasons, the detention order passed by the 2nd respondent dated 06.05.2023 in D.O.No.C2/08/2023, is hereby set aside



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and the Habeas Corpus Petition is allowed. The detenu viz., Annamalai, S/o.Kanagaraj, 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.]
04.10.2023

AP

Internet : Yes

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai – 600 009.
- 2.The District Collector and District Magistrate,
Kallakurichi District, Kallakurichi.
- 3.The Superintendent of Police,
Kallakurichi, Kallakurichi District.
- 4.The Superintendent of Prison,
Central Prison – Cuddalore,
Cuddalore District.
- 5.The Inspector of Police,
Kariyalur Police Station,
Kallakurichi 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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