



HCP.No.1629/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.12.2023

CORAM

THE HONOURABLE MR . JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1629/2023

B.Jaya Chitra

..

Petitioner

Versus

1.Government of Pondicherry
rep.by its Principal Secretary
Puducherry.

2.District Magistrate cum Authorised Officer
Government of Puducherry, officer of
Puducherry, Puducherry.

3.The Superintendent of Police [South]
Puducherry.

4.The Inspector of Police
Ariyankuppam Police Station
Puducherry.

5.The Chief Superintendent of Jail
Central Prison, Kalapet,
Puducherry.

..

Respondents



HCP.No.1629/2023

WEB COPY

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 culminating in the passing of the order of detention the petitioner's son the defence under Prevention at Anti-social, Activity Act, 2008 vide detention order No.06/DM/RO/D2/PPASAA/2023 dated 14.07.2023 on the file of the 2nd respondent herein and quash the same as illegal and consequently direct the respondent herein to produce the body and person of the detenu by name Hemanathan @ Hemu, son of Babu aged about 26 years before this Court and therefore, after set him at liberty from the detention now confined at Central Prison, Kalapet, Puducherry at one.

For Petitioner : Mr.M.Govindaraju
For Respondents : Mr.K.S.Mohandoss
Public Prosecutor, Puducherry

O R D E R

[Order of the Court was made by S.S.SUNDAR, J.]

- (1)The petitioner, mother of the detenu has come forward with this petition challenging the detention order passed by the 2nd respondent dated 14.07.2023 slapped on her son, branding him as "Dangerour Person" under the Prevention of Anti Social Activity Act, 2008.
- (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



HCP.No.1629/2023

WEB COPY

the petitioner submitted that there is a delay in passing the order of detention. In the present case, though the detenu was arrested in the ground case on 06.02.2023, the Detention Order was passed only on 14.07.2023.

(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



HCP.No.1629/2023

WEB COPY

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) Further, the learned counsel for the petitioner pointed out that the documents pertaining to the FIR copy in Crime No.192/2017 found in pages No.22 and 23 are illegible and could not be read. Hence, it is stated that the detention order is liable to be quashed on the ground raised in the previous para and on the ground of non furnishing of legible copies of vital document, thereby depriving the detenu of his valuable right to make effective representation against the detention order to the authorities concerned.

(7) This Court, upon examination of the records, is unable to discard the contention of the learned counsel for the petitioner. It is seen from pages No.22 and 23 of the Booklet furnished to the detenu, the documents pertaining to the FIR copy in Crime No.192/2017 are not clear and the



HCP.No.1629/2023

WEB COPY

said documents are illegible. The furnishing of illegible copies of the documents would deprive the detenu of his valuable right in making effective representation to the authorities against the order of detention.

(8) In this context, it is useful to refer to the judgment of the Hon'ble Supreme Court in ***Powanammal Vs. State of Tamil Nadu*** reported in ***(1999) 2 SCC 413***. The Hon'ble Supreme Court had occasion to deal with similar situation where in the Grounds of Detention referred to an order remanding the detenu therein to judicial custody was in English language. Since the tamil version of the document was not supplied to the detenu therein, a specific issue was raised by the Hon'ble Supreme Court whether failure to supply tamil version of the remand order passed in English, a language not known to the detenu therein, would vitiate the detenu's further detention. The Hon'ble Supreme Court, after discussing the safeguards embodied in Article 22[5] of the Constitution, observed that the detenu should be afforded an opportunity of making representation effectively against the Detention Order and that, the failure to supply every material in the language which can be understood by the detenu, is imperative. In the said context, the Hon'ble Supreme Court has held in



HCP.No.1629/2023

WEB COPY

Paragraphs 9 and 16 as follows:

"9.However, this Court has maintained a distinction between a document which has been relied upon by the detaining authority in the grounds of detention and a document which finds a mere reference in the grounds of detention. Whereas the non-supply of a copy of the document relied upon in the grounds of detention has been held to be fatal to continued detention, the detenu need not show that any prejudice is caused to him. This is because the non-supply of such a document would amount to denial of the right of being communicated the grounds and of being afforded the opportunity of making an effective representation against the order. But it would not be so where the document merely finds a reference in the order of detention or among the grounds thereof. In such a case, the detenu's complaint of non-supply of document has to be supported by prejudice caused to him in making an effective representation. What applies to a document would equally apply to furnishing a translated copy of the document in the language known to and understood by the detenu,



WEB COPY



HCP.No.1629/2023

should the document be in a different language.

.....

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

(9) In view of the ratio laid down by the Hon'ble Supreme Court and in view of the aforesaid facts, this Court is of the view that the detention order is liable to be quashed.

(10) Accordingly, the detention order passed by the 2nd respondent dated 14.07.2023 in No.06/DM/RO/D2/PPASAA/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu 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.]
12.12.2023

AP



HCP.No.1629/2023

Internet: Yes

WEB COPY

To

- 1.The Principal Secretary
Government of Pondicherry
Puducherry.
- 2.District Magistrate cum Authorised Officer
Government of Puducherry, officer of
Puducherry, Puducherry.
- 3.The Superintendent of Police [South]
Puducherry.
- 4.The Inspector of Police
Ariyankuppam Police Station
Puducherry.
- 5.The Chief Superintendent of Jail
Central Prison, Kalapet,
Puducherry.
- 6.The Public Prosecutor
High Court, Madras.



WEB COPY



HCP.No.1629/2023

S.S.SUNDAR, J.,
AND
SUNDER MOHAN, J.,

AP

H.C.P.No.1629/2023



WEB COPY



HCP.No.1629/2023

12.12.2023