



H.C.P.(MD) No.834 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2023

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE SUNDER MOHAN**

H.C.P.(MD) No.834 of 2022

Krishnamoorthy

... Petitioner

-VS-

- 1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
- 2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Ariyalur District, Ariyalur.
- 3.The Superintendent of Prison,
Trichy Women Special Prison,
Trichy District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Habeas Corpus, calling for the entire records, connected with the detention order of the Respondent No.2 in Cr.M.P.No.16/2022 dated 30.04.2022



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and quash the same and direct the respondents to produce the body or person of the detenu by name Tmt.Santha, wife of Krishnamoorthy, aged about 30 years, now detained as “Immoral Traffic Offender” at Special Prison for Women, Trichy before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani
For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN,J.
AND
SUNDER MOHAN,J.

The husband of the detenu has challenged the detention order passed against the detenue, who is branded as 'Immoral Traffic Offender' by the detention order dated 30.04.2022.

2. The learned counsel for the petitioner submitted that the detention order is vitiated because the document relied upon by the detaining authority was furnished to the detenue after 5 days from the date of detention order. He would



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further submit that it is a violation of Section 8 of the Tamil Nadu Act 14 of 1982, besides the constitutional mandates of the Article 226 of the Constitution of India.

3. The learned Additional Public Prosecutor appearing for the respondents submitted that the booklet was furnished to the detainee on 09.05.2022, whereas the detention order was passed on 30.04.2022 which is beyond 5 days.

4. Section 8(1) provides that when a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but on later than five days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the State Government.

5. Since the grounds of detention has been communicated to the detainee after 5 days from the date of order of detention, the detention order is vitiated for violation of Section 8 of the Act 14 of 1982. Hence, the impugned detention order is liable to quashed.



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6. In fine, the Habeas Corpus Petition is allowed. The detention order passed in Cr.M.P.No.16/2022, dated 30.04.2022, by the 2nd respondent, is set aside. Consequently, the detenu viz., Tmt.Santha, W/o.Krishnamoorthy, aged about 30 years, who is now detained in Special Prison for Women, Trichirappalli, is directed to be released forthwith, unless her presence or custody or detention is required in connection with any other case.

Index : Yes / No
Internet : Yes / No
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[G.J.,J.] [S.M.,J.]
20.01.2023



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To

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- 2.The District Magistrate and District Collector,
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- 3.The Superintendent of Prison,
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Trichy District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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