



HCP(MD)No.1371 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 30.01.2023

CORAM

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

H.C.P.(MD)No.1371 of 2022

Sivagami

.. Petitioner/wife of the
Detenu

Vs.

1.State of Tamil Nadu,
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The District Collector and District Magistrate,
Thanjavur District.

3.The Superintendent,
Central Prison,
Tiruchirapalli.

4.The Inspector of Police,
Investigative of Unit Crime against Women,
Thanjavur Town West Police Station,
Thanjavur District.

.. Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, to produce the detenu, T.Paneer Selvam. S/o.Thangaraj, aged about 42 years, residing at No.7/36, Indhira Nagar, Membalam, Thanjavur, Thanjavur District, was branded as DRUG OFFENDER by the order of detention passed by the 2nd respondent order in P.D.No.67/2022 dated 15.06.2022, who is confined at Central Prison, Trichirappalli and set him at liberty.

For Petitioner : Mr.R.C.Paul Kanagaraj

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

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

This petition is filed by the wife of the detenu challenging the preventive detention order of her husband branding him as 'Drug Offender'.

2. According to the petitioner, the detention order suffers from non application of mind and failure to follow the due process. It is contended



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that Panneer Selvam was arrested on 18.05.2022 on the confession made by the other accused, who were intercepted while travelling in a Mahindra Xylo car bearing Registration No.TN 12 5664. The police team attached to Thanjavur Town West Police Station seized huge quantity of banned tobacco product weighing around 549 kgs of tobacco products and on further investigation based on the confession of the accused persons, further seizure of nearly 2000 kgs of tobacco products were seized.

3. Considering their presence is a threat to public peace, detention order was passed by the detaining authority on 15.06.2022. The grounds of detention was served on the detenu to make due representation and it is contended that the copies were not legible and due to the illegible copy, proper representation could not be made. Further, it is also contended that the copies furnished to him is in English, which has disintitiled him to make effective representation.

4. The learned counsel for the petitioner also would contend that the representation given on behalf of the detenu on 21.06.2022 not been



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considered neither by the detaining authority in time nor by the State.

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5. From the records, this Court finds that the detention order dated 15.06.2022 was received by the detenu and representation on his behalf was sent on 20.06.2022 to the detaining authority, who received it on 21.06.2022. However, the same was not considered by the detaining authority within 12 days of the detention order. Similarly, the representation given to the Home Department not been taken into consideration. The reason for not considering the representation is explained by the learned Additional Public Prosecutor that instead of specifically addressing the representation to the Home Department (Prohibition and Excise), the representation was addressed to the Home Department and therefore, it could not be placed before the appropriate authority.

6. This Court not inclined to accept the lame explanation given by the learned Additional Public Prosecutor. That apart, illegible copies of the documents furnished to the detenu has caused prejudice to the detenu and impact his right to make effective representation. For the sole ground the



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detention order is quashed.

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5. In the result, this Habeas Corpus Petition is allowed and the order of detention in P.D.No.67/2022 dated 15.06.2022, passed by the second respondent is set aside. The detenu, viz., T.Paneer Selvam. S/o.Thangaraj, aged about 42 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[G.J.,J.] & [S.M.,J.]
30.01.2023

Index : Yes/No
Internet :Yes/No
NCC : Yes/No

PJL

To

1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The District Collector and District Magistrate,
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3.The Superintendent,
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5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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**DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.**

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