



WEB COPY



HCP.No.2661 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

H.C.P.No.2661 of 2024

Murugammal

... Petitioner/Mother of the
Detenue

Vs.

1. State of Tamil Nadu,
Represented by its Secretary,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police (Goondas Section),
Veppery,
Chennai - 600 007.
3. The Superintendent of Prison,
Central Prison,
Puzhal,
Chennai.



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4. The Inspector of Police,
S-3, Meenambakkam Police Station,
Chennai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records relating to the detention order vide BCDFGISSSV No.741/2024 dated 28.06.2024 passed by the second respondent and quash the same and direct the respondents herein to produce the petitioner's son namely Kalaivanan, S/o. Ilango, aged 28 years, (who is presently under going detention in the Central Prison, Puzhal), Chennai before this Court and set him at liberty.

For Petitioner	: Mr.N.Arun Kumar
For Respondents	: Mr.R.Muniyapparaj Additional Public Prosecutor

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The order of detention passed by the second respondent in proceedings BCDFGISSSV No.741/2024 dated 28.06.2024 is sought to be quashed in the present habeas corpus petition.



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2. Though several grounds are raised in the petition, the learned Counsel for the petitioner would submit that the 161 statement obtained from the mother of the detenu is not dated. Hence, the learned Counsel for the petitioner submitted that the subjective satisfaction arrived at by the detaining Authority based on a document which is not dated, would vitiate the detention order.

3. When the 161 statement obtained from the mother of the detenu is not dated, the veracity of the same becomes doubtful. The compelling necessity to detain the detenu would also depend on when the sponsoring authority has sent his report. In the absence of such report, the compelling necessity to pass the detention order becomes suspect. In view of the aforesaid fact, we are inclined to interfere with the detention order.

4. Accordingly, the detention order passed by the second respondent in proceedings BCDFGISSSV No.741/2024 dated 28.06.2024 is quashed and the habeas corpus petition is **allowed**. The detenu viz., Kalaivanan, aged 28 years, S/o. Ilango, who is confined at Central Prison,



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Puzhal, Chennai is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[S.M.S., J.] [M.J.R., J.]
19.11.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
veda



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To

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1. The Secretary,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
2. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
3. The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police (Goondas Section),
Veppery,
Chennai - 600 007.
4. The Superintendent of Prison,
Central Prison,
Puzhal,
Chennai.
5. The Inspector of Police,
S-3, Meenambakkam Police Station,
Chennai.
6. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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S.M.SUBRAMANIAM, J.
AND
M.JOTHIRAMAN, J.

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