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H.C.P.No.2604 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2024

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

H.C.P.No.2604 of 2024

Murugammal
W/o Ilango

.. Petitioner

v.

1. State of Tamil Nadu rep.by the 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)
Vepery, Chennai 600 007

3. The Superintendent of Prison
Central Prison, Puzhal
Chennai

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

.. Respondents



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Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, to call for the records relating to the detention order vide BCDFGISSSV No.740/2024 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 Kalaiselvan, S/o Ilango, aged 30 years, (who is presently undergoing detention in the Central Prison, Puzhal), before this Hon'ble 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.740/2024 dated 28.06.2024 is sought to be quashed in the present habeas corpus petition.

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



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the detention order.

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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.740/2024 dated 28.06.2024 is quashed and the habeas corpus petition is allowed. The detenu viz., Kalaiselvan, aged 30 years, S/o Ilango, who is confined at Central Prison, Puzhal, Chennai is directed to be set at liberty forthwith, unless he is required in connection with any other case.

Index : yes
Neutral citation : yes/no
SS

(S.M.S.,J.) (M.J.R.,J.)
04.11.2024



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To

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1. The Secretary to Government
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Office of the Commissioner of Police
(Goondas Section)
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5. The Public Prosecutor
High Court, Madras



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S.M.SUBRAMANIAM,J.

AND

M.JOTHIRAMAN,J.

SS

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