

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.05.2017

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THE HONOURABLE MR.JUSTICE M.V.M.MURALIDARAN
and
THE HONOURABLE MR.JUSTICE S.BASKARAN

H.C.P.No.95 of 2017

Rohan

.... Petitioner

vs.

1. State of Tamilnadu,
Rep by The Secretary,
Home, Prohibition & Excise Dept,
Fort St. George, Chennai - 600 009

2. The Commissioner of Police,
The Commissioner Office,
Vepery, Chennai-600 007.

.... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the entire records leading to the detention of the petitioner's friend, Karthik @ Dori Karthik, S/o.Ramesh, who has been detained under Act 14/82 as a 'Goonda' vide detention order dated 03.12.2016 on the file of the 2nd respondent, made in Memo No.1207/BCDFGISSSV/2016 and quash the same and consequently, direct the respondents to produce the body and person of the said detenu before this Court and thereafter, set him at liberty from the Central Prison, Puzhal, Chennai.

For Petitioner .. Mr.D.Gopi Krishnan
For Respondents .. Mr. V.M.R. Rajentren,
Additional Public Prosecutor

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O R D E R
(The order of the Court was made by M.V.MURALIDARAN.,J)

The petitioner, who is the wife of the detenu Karthik @ Dori Karthik, has come up with this habeas corpus petition, challenging the detention order passed against the detenu by the second respondent, vide proceedings No.1207/BCDFGISSSV/2016 dated 03.12.2016.

2. Even though the learned counsel for the petitioner raised many grounds in assailing the impugned order of detention in the petition, he confined his arguments only to the ground that though the order of detention was passed on 03.12.2016, the grounds of detention and the booklet were served on the detenu only on 14.12.2016, which is beyond the period of 5 days prescribed under Section 8 of the said Act, i.e., after 11 days, which prevented the detenu in making effective representation before the authority against the order of detention and thus, on this ground alone, the order of detention is vitiated.

3. We have heard the learned Additional Public Prosecutor on the aforesaid ground and also perused the materials placed on record.

4. On perusal of the records, as rightly pointed out by the learned counsel for the petitioner, we find that though the order of detention was passed on 03.12.2016, the grounds of detention and the booklet were served on the detenu only on 14.12.2016, after a period of 11 days and as per Section 8 of the said Act, the same are required to be served within 5 days to enable the detenu to make effective representation to the Government. Therefore, on this ground, the order of detention gets vitiated.

5. Accordingly, the habeas corpus petition is allowed and the detention order dated 03.12.2016, passed by the second respondent is quashed. The detenu, Karthik @ Dori Karthik, S/o. Ramesh, is directed to be set at liberty, forthwith, unless his presence is required in connection with any other case.

Sd/-

Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Govt. of Tamilnadu,
Home, Prohibition & Excise Dept,
Fort St. George, Chennai - 600 009
2. The Commissioner of Police,
The Commissioner Office
Vepery, Chennai-7.
3. The Superintendent, Central Prison
Chennai
4. The Joint Secretary to Government
Public(Law and order)
Fort. St. George
Chennai 9
5. The Public Prosecutor
High Court, Madras

NM(CO)
sp/13/6

H.C.P.No.95 of 2017



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