

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice M. NIRMAL KUMAR

H.C.P. No. 189 of 2019

Barkath Nisha ... Petitioner

-vs-

1. The State of Tamil Nadu,
Rep. by the Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
2. The Commissioner of Police,
Greater Chennai,
Egmore, Chennai - 08. ... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for records relating to the impugned detention order made BCDFGISSSV No.1165/2018 dated 27.12.2018 on the file of second respondents herein and set aside the same and direct the respondent to produce the detenu, Sibi, son of Babu aged about 26 years residing at No.84/1, End Main Road, Srinivasa Nagar, Kolathur, Chennai - 99 now confined in Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For petitioner : Mr.T.Arul

For Respondents : Mr.C.Iyyappa Raj
Addl.Public Prosecutor

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner, who is the wife of the detenu SIBI, aged about 26 years has come up with this habeas corpus petition, challenging the detention order passed against her husband Sibi by the second respondent, vide Memo No. 1165/BCDFGISSSV/2018 dated 27.12.2018, branding him as a "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas,

Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

3. Though, several grounds were raised in the petition, the learned counsel appearing for the petitioner would mainly focus on the ground only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

4. Learned counsel appearing for the petitioner submitted that certain pages in the booklet, furnished to the detenu, are illegible and could not be read at all. This illegible copy would deprive the detenu of making effective representation to the authorities against the order of detention. Thus, the detention order is vitiated on this ground and the same is liable to be quashed.

5. We have gone through the same. A perusal of the booklet supplied to the detenu would show that certain pages in the booklet furnished to the detenu are illegible and could not be read at all. This has resulted in the detenu being deprived of making an effective representation. Therefore, the detention order is vitiated and liable to be quashed on this ground alone.

6. In the light of the above facts and law, we have no hesitation in quashing the order of detention on the above mentioned ground. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in Memo No. 1165/BCDFGISSSV/2018 dated 27.12.2018 passed by the 2nd respondent is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

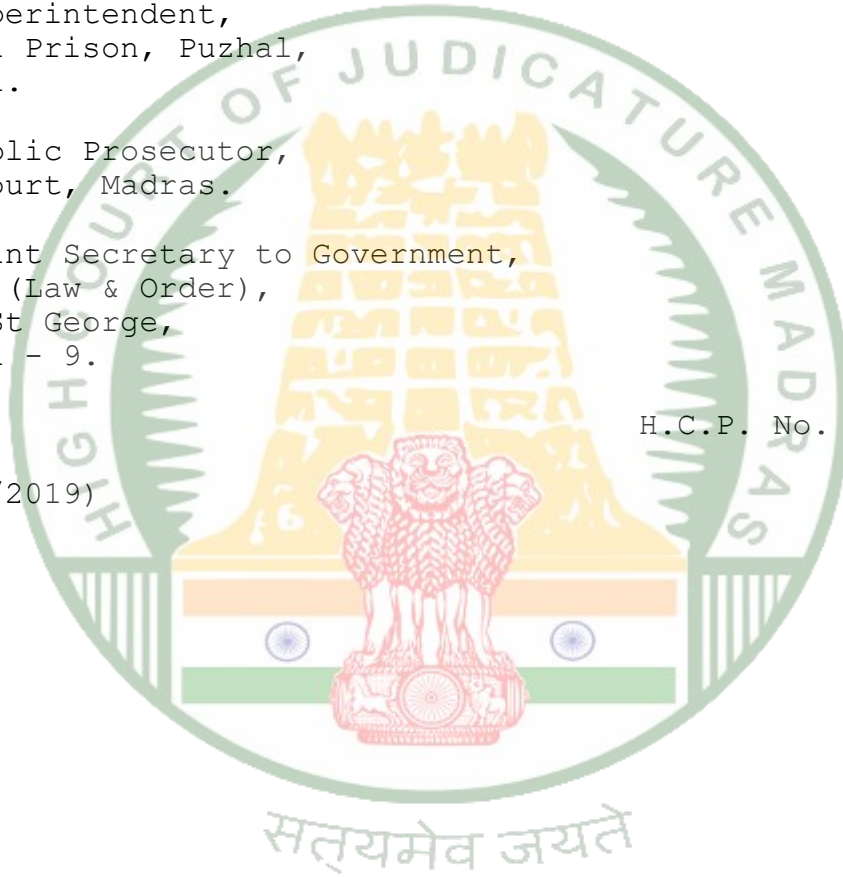
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To:

1. The Secretary to Government,
The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
2. The Commissioner of Police,
Greater Chennai,
Egmore, Chennai - 08.
3. The Superintendent,
Central Prison, Puzhal,
Chennai.
4. The Public Prosecutor,
High Court, Madras.
5. The Joint Secretary to Government,
Public (Law & Order),
Fort. St George,
Chennai - 9.

BR(CO)
SSM(17/07/2019)

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