

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2019

Coram

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

H.C.P. No.527 of 2019

Kalaivani ... Petitioner/Sister of Detenu

-vs-

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,
The Commissioner Office,
Vepery, Chennai - 600 007

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records relating to the detention order in Memo No. 33/BCDFGIISSSV/2019 dated 01.02.2019 passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's brother Arun Kumar S/o Asokan the detenu, now confined in Central Prison, Puzhal, Chennai before this Hon'ble Court and set the petitioner's brother Arun Kumar S/o Asokan, aged about 24 years, the detenu herein and set him at liberty.

For Petitioner : Mr.K.Vivekanandhan

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

ORDER

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

The petitioner is the sister of Arun Kumar S/o Asokan, aged 24 years, who is the detenu. The detenu has been detained by the second respondent by his order in Memo No. 33/BCDFGIISSSV/2019 dated 01.02.2019, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though the learned counsel for the petitioner has raised several other grounds to assail the order of detention, he mainly focused his argument on the ground that there is variation in the translated version of remand extension order and therefore, the impugned order of detention is liable to be quashed.

4. On a careful scrutiny of the impugned order, it is seen that the detaining authority, taking into account the imminent possibility of the detenu being enlarged on bail and the likelihood of the same is prejudicial to the public order and health, has passed the impugned detention order. In the booklet furnished to the detenu, the remand extension order has not been translated properly and there is variation between the English version and vernacular version found at Page No.80 of the booklet. Therefore, when there is a variation between English and Tamil Version in respect of the same document, opportunity of clear understanding and making effective representation on such understanding is lost and the detenu is deprived thereof. Thus, the impugned detention order cannot be sustained.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in Memo No. 33/BCDFGIISSSV/2019 dated 01.02.2019, passed by the second respondent is set aside. The detenu, Arun Kumar S/o, Asokan, aged 24 years, is directed to be released forthwith unless his detention is required in connection with any other case.

s/d-

Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

mmi/ssm

To

1.The Secretary,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George, Chennai - 600 009.

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

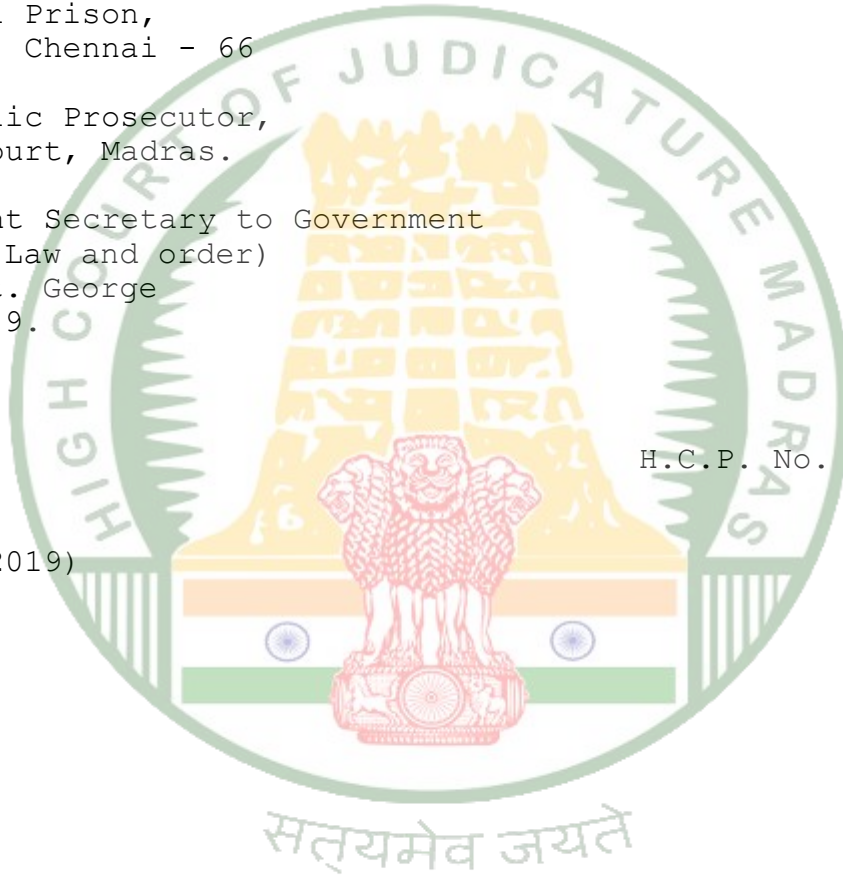
3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai - 66

4.The Public Prosecutor,
High Court, Madras.

5.The Joint Secretary to Government
Public (Law and order)
Fort. St. George
Chennai 9.

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RSK(CO)
SP(22/07/2019)



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