

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.551 of 2019

Sangeetha

... Petitioner

-VS-

1.The State of Tamil Nadu,
Rep. By its Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.

2.The District Collector and District Magistrate,
Tiruvannamalai District,
Tiruvannamalai.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records pertaining to the detention order dated 18.02.2019 in D.O.No.17/2019-C2 passed by the 2nd respondent and issue direction to produce the body of the detenu namely Thiru Kumar, aged 35 years, son of Kullan, presently confined at Central Prison, Vellore, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.Paneer Selvam

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 wife of Kumar, son of Kullan, aged 35 years, who is the detenu. The detenu has been detained by the second respondent by his order in D.O.No.17/2019-C2, dated 18.02.2019 holding him to be a "Sand Offender", as contemplated under Section 2(gg) 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 several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that the date of detention order has not been mentioned in the English version of the grounds of detention, which would vitiate the detention.

4. The learned Additional Public Prosecutor fairly submitted that the date of detention order has not been mentioned in the English version of the grounds of detention and only month and year have been mentioned.

5. On a perusal of the English version of the grounds of detention, it is seen that the detaining authority has not mentioned the date of detention order and only mentioned the month and year. Therefore, this would cause serious prejudice to the detenu and the detenu is deprived from making effective representation. Hence the impugned order of detention is liable to be quashed.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in D.O.No.17/2019-C2, dated 18.02.2019, passed by the second respondent is set aside. The detenu, Kumar, son of Kullan, aged 35 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS IX)

//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 District Collector and District Magistrate,
Tiruvannamalai District,
Tiruvannamalai.

3.The Superintendent of Prison,
Central Prison, Vellore.

4.The Joint Secretary to Government,
Public (Law and Order),
Fort St.George, Chennai-9.

5.The Public Prosecutor,
High Court, Madras.

+2ccs to Mr.S.Panneerselvam, Advocate, S.R.No.49382 & 49896

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LN(CO)

RRS(17/07/2019)



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