

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2019

Coram

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

H.C.P.No.665 of 2019

Mariyammal .. Petitioner/Mother of the 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,
The Greater Chennai City,
Vepery, Chennai - 600 007. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of habeas corpus, calling for the records relating to the detention order in Memo No.131/BCDFGISSSV/2019 dated 16.03.2019 passed by the second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's son Shanmugam @ Sankaralingam, S/o.Mariappan, aged about 29 years, the detenu, now confined in Central Prison, Puzhal, Chennai before this Court and set the petitioner's son Shanmugam @ Sankaralingam, S/o.Mariappan, aged about 29 years, the detenu herein at liberty.

For Petitioner .. Mr.G.B.Motcham
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 mother of the detenu and challenge is made to the order of detention dated 16.03.2019 made in Memo No.131/BCDFGISSSV/2019, passed by the second respondent under which the detenu has been branded as a 'Goonda' and detained 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.

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. The learned counsel appearing for the petitioner submits that the order of Detention passed against the detenu is liable to be set aside on the ground of non-application of mind on the part of the Detaining Authority while passing the order of Detention against the detenu. According to the learned counsel for the petitioner, the similar order relied on by the detaining authority in Page No.5 of the grounds of detention pertains to some other accused and not that of the co-accused. Learned counsel further submitted that the similar order particulars were not furnished to the detenu, which shows non application of mind on the part of the detaining authority, due to which, the order of Detention passed against the detenu gets vitiated.

4.A perusal of the booklet would show that the similar case relied on by the detaining authority in Crime No.17 of 2019 registered for the offence under Sections 147, 148, 341, 294(b), 336, 427, 392, 397 and 506(ii) IPC on the file of M1 Madhavaram Police Station, wherein, bail was granted by the Principal District and Sessions Court, Tiruvallur in CrI.M.P.No.817 of 2019. The similar case relied on by the detaining authority does not pertain to the co-accused and the particulars of the said similar case were not properly furnished to the detenu.

5.On considering the materials, we find that there is every force in the contention put forth by the learned counsel for the petitioner and hence, the order of Detention passed against the detenu is liable to be set aside and it is, accordingly, set aside.

6.In the result, the Habeas Corpus Petition is allowed and the order of detention Memo No.131/BCDFGISSSV/2019 dated 16.03.2019 passed by the second respondent is set aside. The detenu, Shanmugam @ Sankaralingam, S/o.Mariappan, aged about 29 years, is directed to be released forthwith unless his detention is required in connection with any other case.

-s/d-

Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

To

- 1.The Secretary,
Home,Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
- 2.The Commissioner of Police,
The Greater Chennai City,
Vepery, Chennai - 600 007.
- 3.The Superintendent,
Central Prison, Puzhal, Chennai.
- 4.The Joint Secretary to Government
Public(law and order)
Fort. St. George
Chennai 9.
- 5.The Public Prosecutor,
High Court, Madras.

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

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