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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2019

Coram

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

H.C.P.No.777 of 2019

Ammu

..Petitioner

Vs

1. State of Tamil Nadu
rep. by its Secretary,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.

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

..Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of habeas corpus, call for the records of the detention order No.72/BCDFGISSSV/2019 dated 11.02.2019 on the file of the second respondent herein and quash the same and direct the respondents herein to produce the body of the detenu Aythaa @ Gowham @ Appu, aged 28 years, S/o. Magimaidos, now confined in Central Prison, Puzhal, Chennai and set him at liberty.

For Petitioner .. Mr.L.Infant Dinesh

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 the detenu and challenge is made to the order of detention dated made in No.72/BCDFGISSSV/2019 dated 11.02.2019, 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.

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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, 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 F1 Chintadripet P.S. Crime No.809 of 2014 registered for the offence under Sections 147, 148, 341, 307 @ 302 IPC, wherein, bail was granted by the Principal Sessions Judge, Chennai in CrI.M.P.No.17395 of 2014. The similar case relied on by the detaining authority does not pertain to the co-accused.

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 72/BCDFGISSSV/2019 dated 11.02.2019 passed by the second respondent is set aside. The detenu, Aythaa @ Gowham @ Appu, aged 28 years, S/o. Magimaidos, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mmi



To

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

H.C.P.No.777 of 2019

SSP(CO)
SSM(06/08/2019)