

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2019

Coram

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

H.C.P. No. 1143 of 2019

Govindammal

... Petitioner

-vs-

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

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

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records in S.C.No.03/2019 dated 05.04.2019 on the file of the second respondent herein and quash the same as illegal and produce the detenu Bharathan, son of Nageshwaran, aged 24 years, who is confined at Central Prison, Salem before this Court and set him at liberty.

For Petitioner : Mr.T.Panchatsaram

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, Bharathan, son of Nageshwaran, aged 24 years. The detenu has been detained by the second respondent by his order in S.C.No.03/2019 dated 05.04.2019 holding 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.Amidst several grounds raised, learned counsel for the petitioner pointed out that the detenu was involved in two adverse cases and though the detaining authority has expressed his awareness that the detenu is in remand in the ground case and the bail petition filed by the detenu in Crl.M.P.No.413 of 2019 before the Principal District Sessions Court, Dharmapuri was dismissed on 25.03.2019 and he has again filed a bail petition in Crl.M.P.No.500 of 2019, which is pending, there is no reference about the bail petition filed in respect of the adverse cases in Crime Nos.589 of 2018 and 75 of 2019. Learned counsel would further submit that there is nothing to show that such material was placed before the detaining authority at the time of clamping the order of detention. Therefore, the subjective satisfaction expressed by the detaining authority is vitiated.

4.A perusal of the grounds of detention would go to show that the details of the bail petitions in respect of the adverse cases have not been mentioned in the grounds of detention. Therefore, non-furnishing of the details in respect of the adverse cases prevented the detenu from making effective representation. Thus, for the reasons stated herein-above, the impugned detention order cannot be sustained.

5.In the result, the Habeas Corpus Petition is allowed and the order of detention in S.C.No.03/2019 dated 05.04.2019, passed by the second respondent is set aside. The detenu, Bharathan, son of Nageshwaran, 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-I)

True Copy

Sub-Assistant Registrar

To

- 1.The Secretary to Government,
Home,Prohibition and Excise Department,
Secretariat,
Fort St.George, Chennai - 600 009
2. The District Magistrate and District Collector,
Dharmapuri District,
Dharmapuri.
3. The Joint Secretary to Government
Public(Law and order)
Fort. St. George
Chennai 9.
- 4.The Superintendent,
Central Prison, Salem.
- 5.The Public Prosecutor,
High Court, Madras



H.C.P. No. 1143 of 2019

VGII (CO)
SP (03/10/2019)

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