

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2019

Coram

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

H.C.P. No.1199 of 2019

Krishnakumar

... Petitioner

-vs-

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

2.The Commissioner of Police/Detaining Authority,
Huzur Road,
Coimbatore City,
Coimbatore - 18

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the entire records relating to the petitioner's brother detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 18.12.2018 on the file of the second respondent herein made in proceedings Memo C.No.139/G/IS/2018, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's brother namely M.Sujith, S/o. Mani, aged 23 years, before this Court and set the petitioner's brother at liberty from detention, now the petitioner's brother detained at Central Prison, Coimbatore.

For Petitioner : Mr.W.Camyles Gandhi

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 brother of the detenu, M.Sujith, S/o. Mani, aged 23 years. The detenu has been detained by the second respondent by his order in Memo C.No.139/G/IS/2018, dated

18.12.2018, 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 though the detaining authority has expressed his awareness that the detenu is in remand in C-2 Race Course Police Station Crime No.1002/2018 (ground case), the remand order in the said case has not been furnished to the detenu in the booklet and there is nothing to show that such material was placed before the detaining authority at the time of clamping the order of detention and the subjective satisfaction expressed by the detaining authority is vitiated.

4.A perusal of the booklet would go to show that the remand order in respect of the ground case in Crime No.1002 of 2018 has not been enclosed in the booklet furnished to the detenu. Therefore, non-furnishing of the remand order in respect of the ground case 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 Memo C.No.139/G/IS/2018, dated 18.12.2018 passed by the second respondent is set aside. The detenu, M.Sujith, S/o. Mani, aged 23 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

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

2.The Commissioner of Police/Detaining Authority,
Huzur Road,
Coimbatore City,
Coimbatore - 18

3.The Superintendent
Central Prison,Coimbatore.

4.The Public Prosecutor,
High Court, Madras.

5. The Joint Secretary to Government,
Public (law & Order),
Fort Saint George, chennai 9

H.C.P. No.1199 of 2019

GP (CO)
GN (01/08/2019)



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