

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice RMT. TEEKAA RAMAN

H.C.P. No.1429 of 2019

Sasikala

... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. By The Secretary,
Prohibition and Excise Department,
Fort St.George, Chennai - 9.

2.The Commissioner of Police,
Greater Chennai, Veppery, Chennai.

.... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records relating to the detention order memo No.BCDFGISSSV 352/2019 dated 24.06.2019 passed by the second respondent under Tamil Nadu Act 14 of 1982 and quash the same and direct the respondent to produce the detenu Siva, son of Kalimuthu, aged 37 years now confined in Central Prison, Puzhal before this Court and set the detenu Siva, son of Kalimuthu, male, aged 37 years at liberty.

For Petitioner : Mr.S.Vellidoss

For Respondents : Mr.R.Prathap Kumar
: Addl. Public Prosecutor

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner is the wife of the detenu - Siva, son of Kalimuthu, male, aged 37 years. The detenu has been detained by the second respondent by his order in No.352/BCDFGISSSV/2019 dated 24.06.2019, holding him 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 perused the materials available on record.

3.Amidst several grounds raised, learned counsel for the petitioner mainly focused his argument on the ground that in the remand report, the Sections were wrongly mentioned and such variation would vitiate the subjective satisfaction itself and hence the order of detention is vitiated.

4.Learned Additional Public Prosecutor submitted that it is a typographical error and it will not affect the rights of the detenu.

5.On verification of the booklet, particularly Page No.147, it is seen that the Sections have been wrongly mentioned in the remand report. As rightly contended by the learned counsel for the petitioner, the said variation would vitiate the subjective satisfaction itself and on this ground alone, the order of detention is vitiated and liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.352/BCDFGISSSV/2019 dated 24.06.2019, passed by the second respondent is set aside. The detenu, namely, Siva, son of Kalimuthu, male, aged 37 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

AKM/25.10.19/2P-6C /

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