

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2019

Coram

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

H.C.P. No.1563 of 2019

P.Selvarani ... Petitioner/Detenu's Mother

-vs-

1.The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai,
O/o. Commissioner of Police
(Goondas Section),
Vepery, Chennai - 07.

... 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 impugned order of detention passed by the second respondent in Memo No. 376/BCDFGISSSV/2019 dated 04.07.2019 and set aside the same and consequently direct the respondents to produce the detenu Pradap Kumar @ Kulla Pradap, Son of Palani, aged about 24 years, petitioner's son now confined at Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.S.Saravanakumar

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 mother of the detenu Pradap Kumar @ Kulla Pradap, Son of Palani, aged about 24 years. The detenu has been detained by the second respondent by his order in Memo No. 376/BCDFGISSSV/2019 dated 04.07.2019, 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 though the detaining authority has expressed his awareness that the detenu is in remand in the ground case in Crime No.415 of 2010 on the file of R10 M.G.R.Nagar Police Station and he has moved bail application in the said case and the same is pending, he has not mentioned about the details of the bail application in the third adverse in Crime No.198 of 2019. Further, the detenu has not been furnished with the bail application in respect of the third adverse case 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 bail application in respect of the third adverse case has not been enclosed in the booklet furnished to the detenu. Therefore, non-furnishing of the bail application in respect of the third adverse 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 No. 376/BCDFGISSSV/2019 dated 04.07.2019, passed by the second respondent is set aside. The detenu, namely, Pradapkumar @ Kulla Pradap, Son of Palani, aged about 24 years, is directed to be released forthwith unless his detention is required in connection with any other case.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

mmi/ssm

To

1. The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2. The Commissioner of Police,
Greater Chennai,
O/o. Commissioner of Police
(Goondas Section),
Vepery, Chennai - 07.

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.

+1 CC to Mr. S. Saravanakumar, Advocate sr 82176.

H.C.P. No. 1563 of 2019

RJI (CO)
SP(05/11/2019)



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