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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2019

Coram

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

H.C.P. No. 1963 of 2019

Suganthi

... Petitioner

-vs-

State Rep by

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

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

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the records in C.M.P.No.32/Goonda/C2/2019 dated 17.08.2019 on the file of the second respondent and quash the detention as illegal and direct the respondents to produce the detenu Jagadeesan, S/o. Sellaiah, aged 34 years, now confined in Central Prison, Salem, before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Rajanikanth

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, Jagadeesan, S/o. Sellaiah, male, aged 34 years. The detenu has been detained by the second respondent by his order in C.M.P.No.32/Goonda/C2/2019 dated 17.08.2019, 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.



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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. Though learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the detaining authority, while detaining the detenu, has not furnished the legible copy of the document relied on by him. This deprived the detenu from making effective representation. Therefore, on this sole ground, the detention order is liable to be quashed.

4. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially Page No.157 of the booklet, it is clear that the detaining authority, by providing illegible copy of the document, has taken away the rights of detenu to effectively defend himself against his detention. Thus the impugned detention order is liable to be set aside on this ground.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.32/Goonda/C2/2019 dated 17.08.2019, passed by the second respondent is set aside. The detenu, namely, Jagadeesan, S/o. Sellaiah, male, aged 34 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 Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.



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

3.The Superintendent,
Central Prison,Salem.

4.The Public Prosecutor,
High Court, Madras.

5.The Joint Secretary to Government
Public (Law & Order) Dept.
Fort St. George, Chennai-9

H.C.P. No. 1963 of 2019

PM(CO)
GMY(21/01/2020)