

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2019

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P.No.2120 of 2019

D.Kala
W/o.Late Devenndran

... Petitioner

Vs

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai - 600009.

2.The State of Tamil Nadu represented by
The Commissioner of Police,
Greater Chennai,
Office of Commissioner of Police,
(Goondas Section), Vepery,
Chennai - 600007.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the entire records relating to the impugned order of detention passed by second respondent in Memo No.374/BCDFGISSSV/2019 dated 02.07.2019 and set aside the same and consequently, direct the respondents to produce the detenu Baskar @ Manda Baskar, petitioner's son now confined at Central Prison, Puzhal, before this Court and set him at liberty forthwith.

For Petitioner : Mr.M.K.Poongundran
For Respondents : Mr.R.Prathap Kumar
Additional Public Prosecutor

O R D E R
[Order of this Court was made by R.SUBBIAH, J]

Petitioner is the mother of the detenu viz., Baskar @ Manda Baskar S/o.Devendran, aged 24 years, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in Memo No.374/BCDFGISSSV/2019 dated 02.07.2019.

2. The detenu came to adverse notice in the following cases:

Sl.No.	Police Station and Crime No.	Section of Law
1.	R-4 Soundarapandiyanar Angadi Police Station, Crime No.1036/2017	341, 294(b), 323, 384, 506(ii) IPC r/w 34 IPC
2.	R-4 Soundarapandiyanar Angadi Police Station, Crime No.1401/2017	147, 148, 341, 294(b), 323, 324, 506(ii) IPC @ 341, 294(b), 323, 506 (ii), 326 r/w 34 IPC
3.	R-4 Soundarapandiyanar Angadi Police Station, Crime No.113/2018	363 IPC @ 366A IPC & 6 of POCSO Act, 2012

The alleged ground case has been registered against the detenu in Crime No.312 of 2019 on the file of S-5 Pallavaram Police Station for offences u/s.341, 294(b), 392, 336, 427 and 506(ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Heard learned counsel for petitioner and learned Additional Public Prosecutor appearing for respondents. Perused the materials on record.

4. Though several grounds have been raised in the Habeas Corpus Petition, learned counsel for petitioner would mainly focus his argument on the ground that the arrest of the detenu has been intimated through SMS. In support of his contention, learned counsel invited the attention of this Court to Page No.171 of the Booklet - Arrest Intimation Form, wherein it has been mentioned 'SMS SENT THROUGH 8939698328', which would vitiate the detention.

5. We have heard learned Additional Public Prosecutor on the above submissions.

6. In the light of the fact that proper procedure has not been followed in intimating the arrest of the detenu to his blood relatives, we have no hesitation in quashing the order of detention.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Baskar @ Manda Baskar S/o.Devendran, in Memo No.374/BCDFGISSSV/2019 dated 02.07.2019, is quashed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

gm

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai - 600009.
- 2.The Commissioner of Police,
Greater Chennai,
Office of Commissioner of Police,
(Goondas Section), Vepery,
Chennai - 600007.
- 3.The Superintendent of Central Prison,
Puzhal, Chennai.
- 4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.K.Poongundran, Advocate, SR.No.103302.

RR(CO)
CSR:11.02.2020

H.C.P.No.2120 of 2019

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