

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2019

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR. JUSTICE M. NIRMAL KUMAR
H.C.P. No. 3013 of 2018

Malaisamy

... Petitioner

-vs-

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

2.The Commissioner of Police
Greater Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records in connection with the order of detention passed by the second respondent dated 17.10.2018 in Memo No. 953/BCDFGISSSV/2018 against the petitioner's wife Maharani, Female aged 51 years W/o Malaisamy, who is confined at Special Prison for Women, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Hon'ble Court.

For Petitioner : Mr.S.Senthil Vel

For Respondents : Mr.C.Iyyappa Raj
Addl.Public Prosecutor

ORDER

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

The petitioner, who is the husband of the detenu, challenges the impugned order of detention dated 17.10.2018 in order BCDFGISSSV No. 953/2018, detaining her as "Goonda", as contemplated under Section 2 (f) of the Tamil Nadu Act 14 of 1982.

2.We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3.The learned counsel appearing for the petitioner submitted that there is non-application of mind while passing the detention order inasmuch as no bail application has been filed and, therefore, there is no likelihood of the detainee coming out on bail. Secondly, it is submitted that though it has been stated that the relatives are taking steps, the particulars of the said relatives have not been furnished.

4. The learned Additional Public Prosecutor would submit that though particulars have not been submitted, the said observation has been made by the detaining authority after taking note of the statement made by the sponsoring authority.

5. We find that no material is available on record regarding the name of the relatives and particulars regarding the steps that have been taken to file the bail application. Thus, we find non-application of mind on the part of the detaining authority and the detention order is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Memo No. 953/BCDFGISSSV/2018 dated 17.10.2018, passed by the second respondent is set aside. The detainee, namely, Maharani, W/o.Malaisamy, aged 51 years, is directed to be released forthwith unless her detention is required in connection with any other case.

mmi/ssm

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Police
Greater Chennai.

3.The Superintendent,
Special Prison for Women,
Puzhal, Chennai.

4.The Public Prosecutor,
High Court, Madras.

H.C.P. No. 3013 of 2018

Kak (26/07/2019)