

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MS.JUSTICE V.M.VELUMANI

H.C.P.No.7 of 2020

Leema Rose ... Petitioner/Mother of detenu

Vs

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

2.The Commissioner of Police,
Greater Chennai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus, calling for the records in connection with the order of Detention passed by the second respondent dated 26.11.2019 in Memo No. 811/BCDFGISSSV/2019 against the petitioner Son Gopalakrishnan @ Gopal, aged 24 years, S/o. Udhyasuriyan, who is confined at Central Prison, Puzal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr. S. Senthilvel

For Respondents: Mr. R. Prathap Kumar,
Additional Public Prosecutor.

ORDER
(Order of the court was made by N.KIRUBAKARAN.J.,)

The matter was heard through "Video Conferencing".

2.The mother of the detenu has filed this petition challenging the detention order passed against her son in Memo No. 811/BCDFGISSSV/2019 dated 26.11.2019 by the Second Respondent, terming him as 'Goonda' under the Tamil Nadu Act 14

of 1982 as the detenu has got a solitary case registered against him.

3.Heard Mr. S. Senthilvel, learned Counsel appearing for the Petitioner and Mr.R.Prathap Kumar, learned Additional Public Prosecutor appearing for the Respondents.

4.After hearing the learned counsel and on perusing the records, this Court is able to find that the relied documents for passing the detention order has not been supplied to the detenu, which is mandatory under Article 22(5) of the Constitution of India. Therefore the same vitiates the detention order and this Petition has to be necessarily allowed.

5.Accordingly, the detention order passed by the Second Respondent in Memo No. 811/BCDFGISSSV/2019 dated 26.11.2019 is quashed and the Habeas Corpus Petition is allowed. The detenu viz., Gopalakrishnan @ Gopal, aged 24 years, S/o. Udhyasuriyan who is confined at Central Prison, Puzhal, Chennai is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Police,
Greater Chennai.

3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.

4. The Joint Secretary to Government,
Public (law & Order),
Fort Saint George, Chennai 9

5.The Public Prosecutor,
High Court of Madras,
Chennai.

H.C.P.No.7 of 2020

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