

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2020

CORAM :

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

H.C.P.No.45 of 2020

Anitha

... Petitioner

Vs

1. State of Tamil Nadu,
rep., by the Secretary to Government,
Home, Prohibition and Excise Dept.,
Fort St.George,
Chennai - 600 009.

2. The Commissioner of Police,
Greater Chennai,
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 of the detention order vide No.BCDEFGISSSV 871 of 2019 dated 16.12.2019 on the file of the second respondent and quash the same and produce the petitioner's husband Boopathy Raja @ Karthik Raja @ Raja S/o.Mayilvanan, aged 25 years, confined at Central Prison, Puzhal before this Court and set him at liberty.

For Petitioner : Mr.S.N.Arunkumar.

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 Wife of the Detenu has filed this Petition challenging the Detention Order passed by the Second Respondent against her husband in Memo No.BCDEFGISSSV 871 of 2019 dated 16.12.2019, branding him as 'Goonda' as the Detenu has got six adverse cases apart from one ground case registered against him.

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

4.It is seen from the records that the similar case relied by the detaining authority is not similar in nature. It has been observed in the detention order that a case registered at S-15, Selaiyur Police Station in Cr.No.47 of 2018 under Sections 341, 294 (b), 392, 397, 336, 427 and 506 (ii) of Indian Penal Code, bail was granted by the Principal District and Sessions Judge of Kancheepuram at Chengalpattu in Crl.M.P.No.336 of 2018. The case which has been relied upon is different as the ground case filed against the petitioner's husband is under Section 341, 294(b), 323, 336, 427, 394, 397 and 506 (ii) of Indian Penal Code. Therefore, there is a non-application of mind on the part of the detaining authority while passing the detention order.

5.Hence, the detention order passed by the Second Respondent in Memo No.BCDEGISSSV 871 of 2019 dated 16.12.2019 is quashed and the Habeas Corpus Petition is allowed. The detenu viz., Boopathy Raja @ Karthik Raja @ Raja S/o.Mayilvanan, aged 25 years, 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(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Home, Prohibition and Excise Dept.,
Fort St.George,
Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Chennai.
3. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.

4. The Joint Secretary to Government,
Public (Law & Order),
Fort St.George, Chennai-9.
5. The Public Prosecutor,
High Court of Madras,
Chennai.

H.C.P.No.45 of 2020

SSI (CO)
CS/30/07/2020



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