

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice D.KRISHNAKUMAR

H.C.P. No. 236 of 2020

Sahira Banu

...Petitioner/Detenu's mother

-vs-

1. The State of Tamil Nadu
Rep. by its Secretary to Government
Home, Prohibition and Excise Department
Fort St. George, Chennai 600 009.
2. The Commissioner of Police,
Detaining Authority,
Coimbatore City, Coimbatore.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus calling for the records relating to the detention order C.No.08/G/IS/2020 dated 13.01.2020 passed by the Second respondent under Tamil Nadu Act and quash the same and direct the respondent to produce the detenu H.Mohammed Wasif aged about 29 years son of Haroon Basha before this Court, now confined in Central Prison, Coimbatore and set him at liberty.

For Petitioner : Mr.R.Vivekananthan

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 mother of H.Mohammed Wasif, S/o.Haroon Basha, aged about 29 years, who is the detenu. The detenu has been detained by the second respondent by his order in C.No.08/G/IS/2020 dated 13.01.2020, holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents and we have also perused the records carefully.

3. Though the 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 remand warrant has not been properly translated in vernacular language. This deprived the detenu from making effective representation. Learned counsel for the petitioner further contended that though the occurrence in the ground case took place on 10.12.2019 and the detenu was arrested on the same day, the detention order was passed only on 13.01.2020 i.e., after a considerable delay of nearly one month. Therefore, the detention order has to be set aside.

4. On consideration of the submissions made on either side and upon perusal of the documents available on record especially Page Nos. 30 and 31 of the booklet, it is clear that the remand warrant has not been properly translated in vernacular language. We have gone through the entire materials placed on record. There is no satisfactory explanation offered by the Detaining Authority for the delay in passing the order of detention. Hence the impugned order of detention is liable to be set aside on these grounds.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.08/G/IS/2020 dated 13.01.2020 passed by the second respondent is set aside. The detenu, namely, H.Mohammed Wasif, S/o.Haroon Basha, aged about 29 years is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

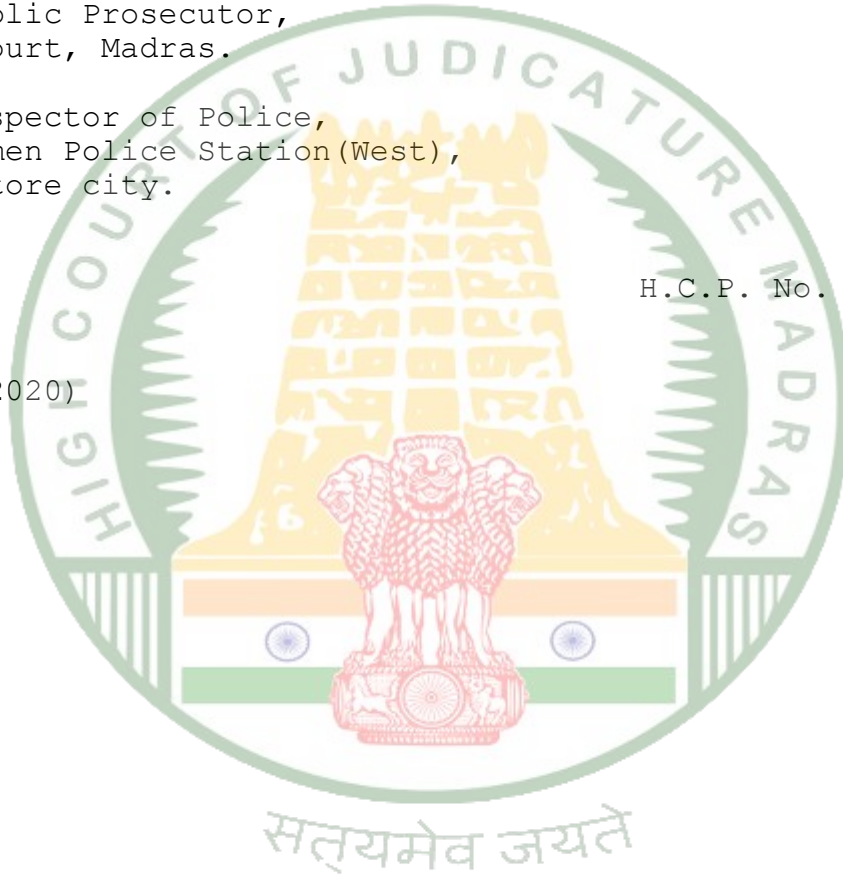
To

1. The Secretary to Government
Home, Prohibition and Excise Department
Fort St. George, Chennai 600 009.
2. The Joint Secretary to Government,
Home, Public (Law and Order),
Fort Saint George, Ch-9.

3. The Chief Judicial Magistrate,
Coimbatore.
4. The Commissioner of Police,
Detaining Authority,
Coimbatore City, Coimbatore.
5. The Superintendent,
Central Prison,
Coimbatore.
6. The Public Prosecutor,
High Court, Madras.
7. The Inspector of Police,
All Women Police Station (West),
Coimbatore city.

H.C.P. No. 236 of 2020

SS (CO)
RV (24/11/2020)



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