

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05.10.2020

Coram

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

H.C.P. No. 620 of 2020

R.Karthika

.. Petitioner

Vs.

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

2.The Commissioner of Police,
Greater Chennai,
Chennai Police Commissioner Office,
Vepery, Chennai.
(Detention Order No.38/2020)

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

4.The State, rep.by Inspector of Police,
NIB-CID,
Chennai

... 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 passed by the 2nd respondent pertaining to the order made in No.38/2020 dated 24.01.2020, in detaining the detenu under 2(f) of the Tamil Nadu Act 14 of 1982, as a Goonda and quash the same and direct the respondents to produce the detenu Ramkumar, S/o.Murugan, male, aged about 22 years, who is detained at Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.S.S.Karthikeyan

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 wife of Ramkumar, S/o.Murugan, male, aged about 22 years, who is the detenu. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.No.38/2020 dated 24.01.2020, holding him to be a "Drug Offender", as contemplated under Section 2(e) 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 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 detaining authority, while detaining the detenu, has not furnished the legible copies of the documents relied on by him. This deprived the detenu from making effective representation. Therefore, on this sole ground, the detention order is liable to be quashed.

4.On consideration of the submissions made on either side and upon perusal of the documents available on record, especially Form 91 pertaining to the similar case at Page No.233 of the booklet, it is clear that the detaining authority, by providing illegible copies of the documents, has taken away the rights of detenu to effectively defend himself against his detention. Thus the impugned detention order is liable to be set aside on this ground.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.38/2020, dated 24.01.2020 passed by the second respondent is set aside. The detenu, namely, Ramkumar, S/o.Murugan, male, aged about 22 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

mmi/ssm

To

- 1.The Secretary to Government,
Home Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.
- 2.The Commissioner of Police,
Greater Chennai,
Chennai Police Commissioner Office,
Vepery, Chennai.
- 3.The Superintendent of Police,
Central Prison,
Puzhal, Chennai.
- 4.The State, rep.by Inspector of Police,
NIB-CID, Chennai.
- 5.The Public Prosecutor,
High Court, Madras.
- 6.The Joint Secretary to Government
Public (law and Order),
Fort st George, Secretariat Chennai.

+2cc to Jury Brain law office, sr no.32604

RSV(CO)
RMP(22/10/2020)

H.C.P. No.620 of 2020

सत्यमेव जयते

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