

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.579 of 2020

M.Santha

.. Petitioner

Vs.

1 The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,
Chennai-600 009

2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Vepery, Chennai-600 007.

3.The Superintendent of Police,
Central Prison, Puzhal,
Chennai-600 066

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records pertaining to the detention order in BCDFGISSSV No.36/2020, dated 24.01.2020, passed by the 2nd respondent and quash the same by setting the detenu namely Prakash, S/o.Mayan, aged about 24 years before this Court and set him at liberty, now detained at Central Prison, Puzhal, Chennai-66.

For Petitioner : Mr.S.Sathyaraj

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 Prakash, S/o.Mayan, male, aged about 24 years, who is the detenu. The detenu has been

detained by the second respondent by his order in BCDFGISSSV No.36/2020, 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.241 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.36/2020, dated 24.01.2020 passed by the second respondent is set aside. The detenu, namely, Prakash, S/o.Mayan, male, aged about 24 years is directed to be released forthwith unless his detention is required in connection with any other case.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

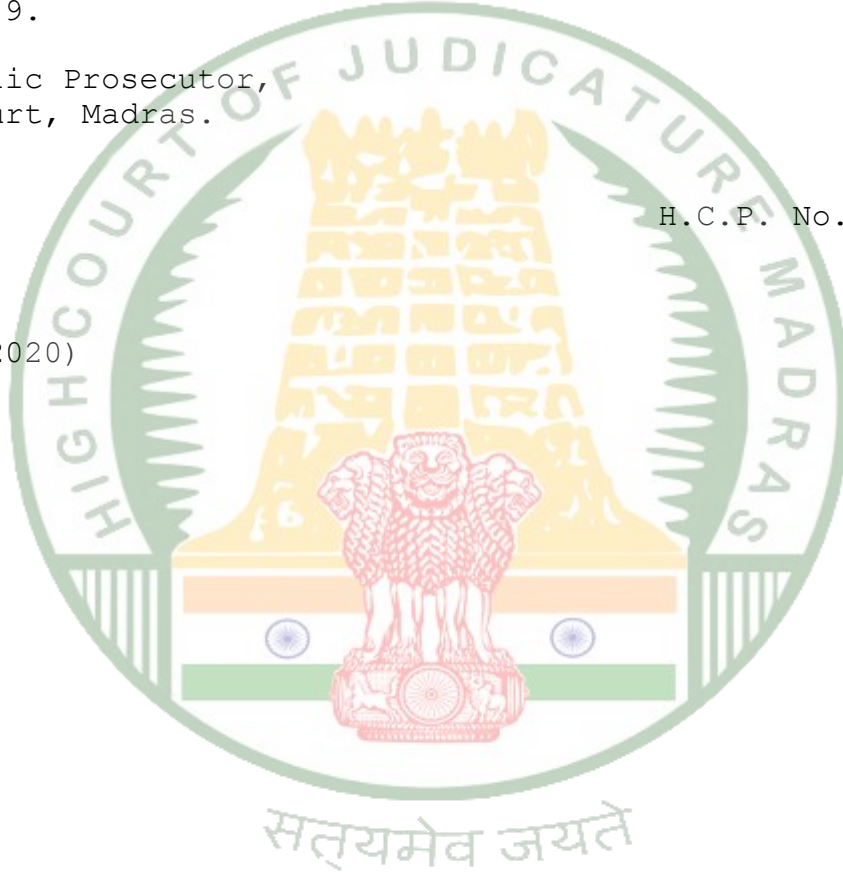
mmi/ssm
To

1 The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,
Chennai-600 009

- 2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Vepery, Chennai-600 007.
- 3.The Superintendent of Police,
Central Prison, Puzhal, Chennai-600 066
- 4.The Joint Secretary to Government
Public (law and order)
Fort. St. George
Chennai 9.
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P. No.579 of 2020

RSV(CO)
SP(04/11/2020)



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