

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

H.C.P. No. 2048 of 2020

Pannerselvam

..Petitioner/Father of
the detenu

.Vs.

1. The State of Tamil Nadu,
rep. by the Secretary to Government,
Department of Home, Prohibition and Excise ,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Office of Commissioner of Police,
Vepery, Chennai - 7.
3. The Superintendent of Police,
Central Prison, Puzhal II,
Puzhal, Chennai.
4. Inspector of Police,
P-6, Kodungaiyur Police Station,
Chennai.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Habeas Corpus to call for the records in Memo No.02/BCDFGISSSV/2020 passed by the 2nd respondent on 06.01.2020, on the file of the 2nd respondent and quash the same as illegal and consequently direct the respondent to produce the petitioner's son Robert, S/o. Panneerselvam, aged about 21 years, before this Hon'ble Court, who is now detained in Central Prison, Puzhal II, and set him at liberty.

For Petitioner : Mr.A. Elumalai

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

O R D E R
(Order of the Court was made by M.M. SUNDRESH, J.)

The petitioner is the father of the detenu. The detenu has been detained by the second respondent by his order in Memo No.02/BCDFGISSSV/2020 dated 06.01.2020 holding him to be a "Goonda", as contemplated under Section 2(f) 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. We have also perused the records produced by the Detaining Authority.

3. Among other grounds, the detention order is mainly attacked on the ground that though the detenu was arrested on 11.12.2019, his remand was not extended, but the detention order came to be passed on 06.01.2020, which shows lack of application of mind on the part of the Detaining Authority. Therefore, the detention order has to be set aside.

4. We have gone through the entire materials placed on record. It is seen that the remand of the detenu was not extended. But the Detaining Authority, in a mechanical way, without proper application of mind, has passed the detention order. Hence the impugned order of detention is liable to be set aside.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in Memo No.02/BCDFGISSSV/2020 passed by the 2nd respondent on 06.01.2020, is set aside. The detenu, namely, Robert, S/o. Panneerselvam, aged 21 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

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

2. The Commissioner of Police,
Greater Chennai,
Office of Commissioner of Police,
Vepery, Chennai - 7.
3. The Superintendent of Police,
Central Prison, Puzhal II,
Puzhal, Chennai.
4. Inspector of Police,
P-6, Kodungaiyur Police Station,
Chennai.
5. The Public Prosecutor,
High Court, Madras.

H.C.P. No. 2048 of 2020

rr ii (08/01/2021)



WEB COPY