

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. 673 of 2020

K.Ananthi .../Petitioner/Wife of
Detenue

-vs-

- 1.The State of Tamil Nadu
Rep. by its Secretary to Government,
Home Prohibition and Excise (XVI) Department,
Fort St. George, Secretariat,
Chennai 600 009.
 - 2.The District Collector and
District Magistrate of
Krishnagiri,
Krishnagiri District.
 - 3.The Superintendent of Police,
Krishnagiri District,
Krishnagiri.
 - 4.The Superintendent of Prison,
Central Prison, Salem,
Salem District.
 - 5.The Inspector of Police,
Kandhikuppam Police Station,
Krishnagiri District.
- ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus calling for the records in connection with the order of detention passed by the 2nd respondent dated 17.02.2020 in his office Ref.S.C.No.15/2020 against the petitioner's husband by name Thiru.Kumar, S/o.Chinnapaiyan, aged about 40 years now under the custody of

the 4th respondent namely Central Prison, Salem, Salem District and set aside the same and direct the respondents to produce the above said detenu before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.E.Kannadasan

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 Kumar, S/o.Chinnapaiyan, aged about 40 years, who is the detenu. The detenu has been detained by the second respondent by his order in Ref.S.C.No.15/2020, dated 17.02.2020, 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 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 the seizure mahazar pertaining to the ground case at Page No.89 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 S.C.No.15 of 2020, dated 17.02.2020 passed by the second respondent is set aside. The detenu,

namely, Kumar S/o.Chinnapaiyan, aged about 40 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 (XVI) Department,
Fort St. George, Secretariat, Chennai 600 009.
- 2.The District Collector and
District Magistrate of
Krishnagiri, Krishnagiri District.
- 3.The Superintendent of Police,
Krishnagiri District, Krishnagiri.
- 4.The Superintendent of Prison,
Central Prison, Salem, Salem District.
- 5.The Inspector of Police,
Kandhikuppam Police Station,
Krishnagiri District.
- 6.The Joint Secretary to Government,
Public (Law & Order) Department,
Fort St.George, Chennai.
- 7.The Public Prosecutor,
High Court, Madras.

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

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