

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2020

Coram

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

H.C.P. No. 697 of 2020

Shabiya ... Petitioner

-vs-

1.State of Tamilnadu
Rep by the Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009

2.The Commissioner of Police
Greater Chennai
Veppery, Chennai 600 007

3.The Superintendent of Prisons
Central Prison-2, Puzhal
Chennai 600 066

4.The Inspector of Police
H-8, Thiruvotriyur Police Station
Chennai 600 019

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus or appropriate writ order or direction to call for the entire records from the 2nd respondent in connection with order in Cr.M.P.No.164/BGDFGISSSV/2020 dated 06.03.2020 and quash the same and produce my husband namely Mohammed Azharedeen, S/o. Allah Pichai, aged 33 years now confined in Central Prison-2, Puzhal, Chennai 600 066 under the Tamil Nadu Act 14 of 1982 before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.P. Pugalenth

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 Mohammed Azharudeen, S/o. Allah Pichai, aged 33 years, who is the detenu. The detenu has been detained by the second respondent in connection with order in Cr.M.P.No.164/BGDFGISSSV/2020 dated 06.03.2020, 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.117 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 Cr.M.P.No.164/BGDFGISSSV/2020 dated 06.03.2020 passed by the second respondent is set aside. The detenu, namely, Mohammed Azharedeen, S/o. Allah Pichai, aged 33 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
Secretariat, Chennai 600 009
2. The Commissioner of Police
Greater Chennai, Veppery, Chennai 600 007
3. The Superintendent of Prisons
Central Prison-2, Puzhal
Chennai 600 066.
4. The Inspector of Police
H-8, Thiruvotriyur Police Station
Chennai 600 019.
- 5.The Joint Secretary
Public (law & order) Department
Secretary , Chennai-9.
- 6.The Public Prosecutor,
High Court, Madras.

SSI (CO)
RMP (21/10/2020)

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