

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2020

Coram

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

H.C.P. No. 808 of 2020

Sumithra

... Petitioner

-vs-

- 1.State of Tamil Nadu rep. by
The Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.
- 2.Office of the District Collector and District
Magistrate, Kancheepuram District,
Kancheepuram.
- 3.The Superintendent of Police,
Kancheepuram District,
Kancheepuram.
- 4.The Superintendent,
Central Prison, Vellore.
- 5.The Inspector of Police,
Siva Kanchi Police Station,
Kancheepuram District.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus to call for the records pertaining to the order of detention passed in BCDFGISSSV No.18/2020 dated 18.03.2020 passed by the second respondent and set aside the same and directing the respondents to produce the petitioner's son by name Thiru.Barath, S/o.Velu, aged about 23 years, before this Court, now confined in Central Prison, Vellore and set him at liberty.

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For Petitioner : Mr.K.Thenrajan

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 the detenu. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.18/2020 dated 18.03.2020, 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. Though several grounds have been raised, learned counsel for the petitioner mainly focused his arguments on the ground that the arrest intimation does not carry the signature of the detenu. Therefore, the same would deprive the detenu from making effective representation. Therefore, the impugned order of detention is vitiated in law.

4. A perusal of the records would go to show that the signature of the detenu has not been obtained in the arrest intimation at Page No.183 of the booklet furnished to the detenu. Therefore, the detenu is prevented from making effective representation. On this ground alone, the impugned detention order is liable to be quashed.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.18/2020 dated 18.03.2020, passed by the second respondent is set aside. The detenu, namely, Barath, S/o.Velu, aged about 23 years is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-VIII)

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Sub Assistant Registrar

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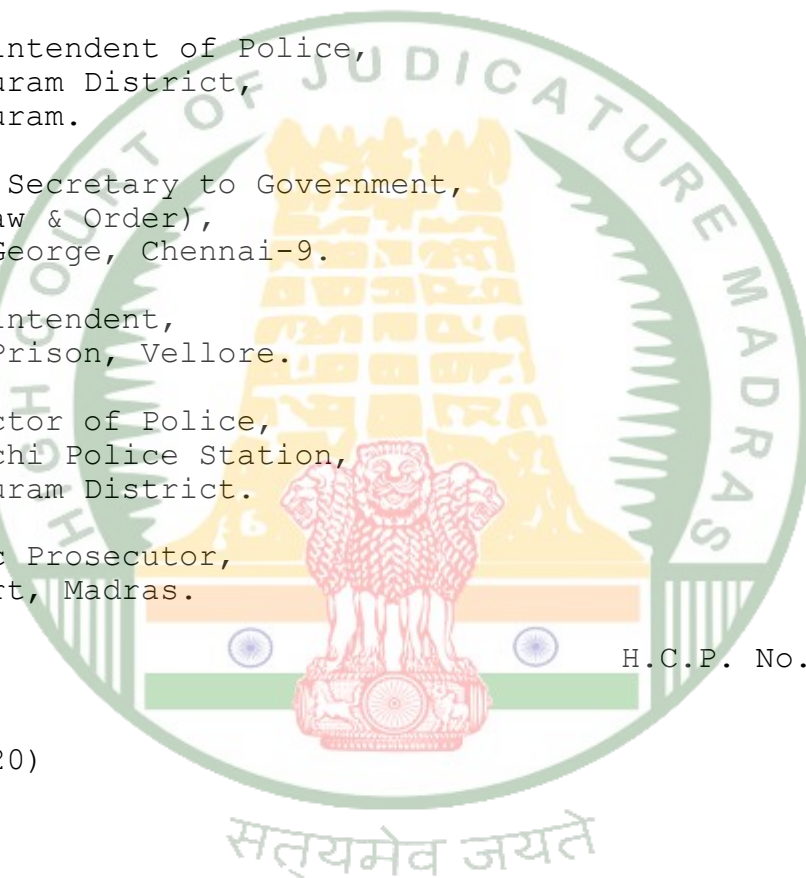
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To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.
- 2.Office of the District Collector and District
Magistrate, Kancheepuram District,
Kancheepuram.
- 3.The Superintendent of Police,
Kancheepuram District,
Kancheepuram.
- 4.The Joint Secretary to Government,
Public(Law & Order),
Fort St.George, Chennai-9.
- 5.The Superintendent,
Central Prison, Vellore.
- 6.The Inspector of Police,
Siva Kanchi Police Station,
Kancheepuram District.
- 7.The Public Prosecutor,
High Court, Madras.

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