

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2020

Coram

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

H.C.P. No. 806 of 2020

Dhanalakshmi

.. Petitioner

Vs.

1. The Secretary to Government
of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Chennai - 9.
2. District Collector and District
Magistrate, Vellore District.
3. The Superintendent of Police,
Vellore, Vellore District.
4. The Inspector of Police,
Veppankuppam Police Station,
Vellore District.
5. The Superintendent of Police,
Vellore Central Prison, Vellore District.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus calling for the records of the detention order made in C3/D.O.No.45/2020 dated 19.05.2020 passed by the District Collector and District Magistrate, Vellore, Vellore District, the second respondent herein and set aside the same and direct the respondents to produce the detenu before this Court and set the detenu Mayilvaganam, S/o.Jothilingam, M/A 42, now confined at Central Prison, Vellore, Vellore District at liberty.

For Petitioner : Mr.N.Sudharshan

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 Mayilvaganam, S/o.Jothilingam, aged about 42 years, who is the detenu. The detenu has been detained by the second respondent by his order in C3/D.O.No.45/2020 dated 19.05.2020, holding him to be a "Sand Offender", as contemplated under Section 2(gg) 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 remand order pertaining to the fifth adverse case placed before the detaining authority has not been furnished to the detenu, which caused great prejudice to the detenu and he has been prevented from making an effective representation for consideration of the authorities concerned. Therefore, the impugned order of detention is vitiated in law.

4. A perusal of the booklet would go to show that the remand order pertaining to the fifth adverse case placed before the detaining authority has not been enclosed in the booklet furnished to the detenu. Therefore, non-furnishing of the above materials would obviously deprive of his opportunity to make effective representation and hence, we are of the opinion that the detention order is liable to be quashed on this ground.

5. Accordingly, the impugned detention order passed by the second respondent, detaining the detenu, namely, Mayilvaganam, S/o.Jothilingam, aged about 42 years, made in C3/D.O.No.45/2020 dated 19.05.2020 is quashed and the Habeas Corpus Petition is allowed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

mmi/ssm

To

1. The Secretary to Government
of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Chennai - 9.
2. District Collector and District
Magistrate, Vellore District.
3. The Superintendent of Police,
Vellore, Vellore District.
4. The Inspector of Police,
Veppankuppam Police Station,
Vellore District.
5. The Superintendent of Police,
Vellore Central Prison, Vellore District.
6. The Public Prosecutor,
High Court, Madras.

H.C.P. No.806 of 2020

GJ(CO)
SP(08/12/2020)



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