

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2020

Coram

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

H.C.P. No. 811 of 2020

Kavitha

... Petitioner

-vs-

1.The Commissioner of Police,
The Office of the Commissioner of Police,
Greater Chennai, Egmore,
Chennai - 08.

2.The Government of Tamil Nadu
Rep. By its Addl. Chief Secretary to Government
Home, Prohibition and Excise Department
Chennai 600 009.

3.The Superintendent,
Central Prison, Puzhal,
Chennai - 66.

4.The Inspector of Police,
Anti Vice Squard II,
Greater Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus calling for the records of the first respondent culminating with the order of detention bearing No.186/BCDFGISSSV/2020 dated 16.03.2020 passed by the first respondent herein detaining petitioner's husband Sentihl, son of Dilli, under Section Act XIV of 1982 and quash the same and direct the respondents to produce the body of the person of the detenu Senthil, son of Dilli, male, aged about 26 years, before this Court, now confined in the Central Prison, Puzhal, Chennai and set him at liberty.

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For Petitioner : Mr.M.Jaikumar

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 Senthil, son of Dilli, male, aged about 26 years, who is the detenu. The detenu has been detained by the first respondent in connection with order in No. 186/BCDFGISSSV /2020 dated 16.03.2020, holding him to be a "Immoral Traffic Offender", as contemplated under Section 2(g) 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 bail application at Page No.61 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 No. 186/BCDFGISSSV/2020 dated

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16.03.2020 passed by the first respondent is set aside. The detenu, namely, Senthil, son of Dilli, male, aged about 26 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

1. The Commissioner of Police,
The Office of the Commissioner of Police,
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5. The Public Prosecutor,
High Court, Madras.

GP(CO)
CB(09/12/2020)

सत्यमेव जयते

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