

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

H.C.P.No.938 of 2020

Nithila .. Petitioner/Mother of Detenue

Vs.

- 1.State of Tamil Nadu, Rep. by its .. Respondents
Secretary to Government [Home]
Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
- 2.The District Collector And District Magistrate,
Vellore District, Vellore.
- 3.The Superintendent of Prisons,
Vellore Central Prison, Vellore District.
- 4.The Superintendent of Police,
Vellore District.
- 5.The State Rep. by Inspector of Police,
Thiruvalam Police Station, Vellore District.

Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus calling for the entire records of the second respondent in his proceeding C3/D.O.No.38/2020 dated 16.05.2020 to quash the same and consequently direct the respondents to produce the petitioner's son Subash aged 23 years now confined in Central Prison, Vellore set him liberty forthwith.

For Petitioner : Mr.N.Chinnaraj

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 Subash, S/o.Munusamy, male, aged 23 years, who is the detenu. The detenu has been detained by the second respondent by his order in C3/D.O.No.38/2020 dated 16.05.2020, 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 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 first adverse case observation mahazar at Page No.6 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 C3/D.O.No.38/2020 dated 16.05.2020, passed by the second respondent is set aside. The detenu, namely, Subash, S/o.Munusamy, male, aged 23 years, is directed to be released forthwith unless his detention is required in connection with any other case.

-Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar

mmi/ssm

To

- 1.The Secretary to Government [Home]
Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
- 2.The District Collector And District Magistrate,
Vellore District, Vellore.
- 3.The Superintendent of Prisons,
Vellore Central Prison, Vellore District.
- 4.The Superintendent of Police,
Vellore District.
- 5.The Inspector of Police,
Thiruvalam Police Station, Vellore District.
- 6.The Public Prosecutor,
High Court, Madras.
- 7.The Joint Secretary,
Public (Law and Order),
Fort.St.George,
Chennai-600 009.

H.C.P. No.938 of 2020

CA (CO)
UM (15.12.2020)

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