

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2020

Coram

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

H.C.P. No. 1023 of 2020

Nagamma

...Petitioner

-vs-

1. The Secretary to the Government,
Home Prohibition and Excise Dept.,
Secretariat, Chennai 600 009.
2. Commissioner of Police,
Greater Chennai.
3. The Superintendent of Prison,
Central Prison, Puzhal, Chennai-66.
4. The Inspector of Police,
L&O, R-7 K.K. Nagar Police Station,
Chennai District.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus to call for the records in connection with the order of Detention passed by the second respondent dated 11.02.2020 in MEMO.NO.85/BCDFGISSSV/2020 against the petitioner Son Manikandan @ Nai Mani, male aged 31 years, S/o.Elumalai, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before the Court and set him at liberty.

For Petitioner : Mr.A.Nirmal Kumar

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 Manikandan @ Nai Mani, male aged 31 years, S/o.Elumalai, who is the detenu. The detenu has been detained by the second respondent in connection with order

in MEMO.NO.85/BCDFGISSSV/2020 dated 11.02.2020, 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 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 similar case at Page No.187 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 MEMO.NO.85/BCDFGISSSV/2020 dated 11.02.2020 passed by the second respondent is set aside. The detenu, namely, Manikandan @ Nai Mani, male aged 31 years, S/o.Elumalai, 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

To

1. The Secretary to Government,
Home Prohibition and Excise Dept.,
Secretariat, Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai.
3. The Superintendent of Prison,
Central prison, Puzhal, Chennai-66.

4. The Inspector of Police,
L&O, R-7 K.K. Nagar Police Station,
Chennai District.

5. The Public Prosecutor,
High Court, Madras.

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SRA (CO)
RV (27/11/2020)



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