

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2020

Coram

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

H.C.P. No. 1095 of 2020

I.Bharathi ..Petitioner/Wife of the Detenu

-vs-

1.The Secretary to Government
Home, Prohibition and Excise Department
Secretariat,
Fort St.George, Chennai 600 009.

2.The State of Tamilnadu,
Rep. By The District Collector-cum-
District Magistrate of Vellore,
Vellore District.

3.The Superintendent of Police,
Vellore, Vellore District.

4.The Inspector of Police,
Vellore South L & O Police Station,
Vellore, Vellore District.

5.The Superintendent,
Central Prison, Vellore.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus calling for the records in connection with the order of detention passed by the second respondents in No.C3/D.O.No.40/2020 dated 19.05.2020 against detenu, the petitioner's husband, namely Appu @ Immanuel, son of Lourdhusamy, aged about 26 years, who is now confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner	..	Mr.T.Saravanan
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 Appu @ Immanuel, son of Lourdhusamy, aged about 26 years, who is the detenu. The detenu has been detained by the second respondent in connection with order in C3/D.O.No.40/2020 dated 19.05.2020, 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 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 pertaining to similar case at Page No.100 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.C3/D.O.No.40/2020 dated 19.05.2020 passed by the second respondent is set aside. The detenu, namely, Appu @ Immanuel, son of Lourdhusamy, aged about 26 years, is directed to be released forthwith unless his detention is required in connection with any other case.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ssm

To

- 1.The Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Fort St.George, Chennai 600 009.
- 2.The State of Tamilnadu,
Rep. By The District Collector-cum-
District Magistrate of Vellore,
Vellore District.
- 3.The Superintendent of Police,
Vellore, Vellore District.
- 4.The Inspector of Police,
Vellore South L & O Police Station,
Vellore, Vellore District.
- 5.The Superintendent,
Central Prison, Vellore.
- 6.The Joint Secretary to Government
Public (law and order)
Fort. St. George
Chennai 9.
- 7.The Public Prosecutor,
High Court, Madras.

H.C.P. No. 1095 of 2020

RGN(CO)
SP(08/01/2021)

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