

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2020

Coram

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

H.C.P. No. 1101 of 2020

Lourdhumary .. Petitioner /Mother of Detenue
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 respondent in No.C3/D.O.No.43/2020 dated 19.05.2020 against detenu the petitioner's son namely Nirmal, son of Palani, aged about 23 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 mother of Nirmal, son of Palani, aged about 23 years, who is the detenu. The detenu has been detained by the second respondent by his order in C3/D.O.No.43/2020 dated 19.05.2020, holding 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 bail application pertaining to similar case at Page No.101 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.43/2020 dated 19.05.2020, passed by the second respondent is set aside. The detenu, namely, Nirmal, son of Palani, male, aged about 23 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS)

//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 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.

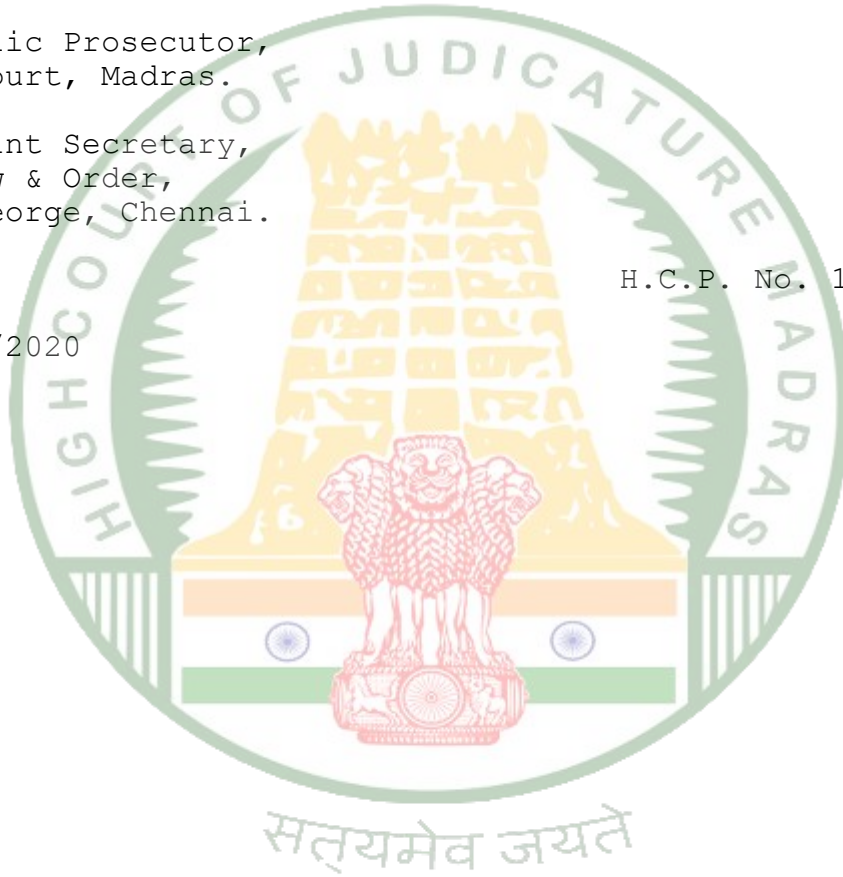
5.The Superintendent,
Central Prison, Vellore.

6.The Public Prosecutor,
High Court, Madras.

7. The Joint Secretary,
Public Law & Order,
Fort.St.George, Chennai.

H.C.P. No. 1101 of 2020

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