

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2020

Coram

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

H.C.P. No. 1150 of 2020

Saraswathi

..Petitioner

Vs.

- 1.The Secretary to the Government,
Home Prohibition and Excise Department,
Fort St. George, Chennai 600 009.
- 2.The Commissioner of Police,
Greater Chennai, Vepery, Chennai.
- 3.The Superintendent of Prison,
Central Prison, Salem.
- 4.The Inspector of Police, L & O,
N-4, Fishing Harbour Police Station, Chennai. ..Respondents

Petition filed under Article 226 of the Constitution of India for issuance of Writ of Habeas Corpus to call for the records in connection with the order of Detention passed by the second respondent dated 23.03.2020 in BCDFGISSSV No. 215 of 2020 against the petitioner son Mr. Sambath @ R15 male aged about 27 years son of Sankar, who is confined at Central Prison Salem, and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr. M. Illiyas
For Respondents : Mr.R.Prathap Kumar,
Addl. Public Prosecutor

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ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner is the mother of Sambath @ R15, male, aged about 27 years, S/o.Sankar, who is the detenu. The detenu has been detained by the second respondent by his order in BCDFGISSSV No. 215 of 2020 dated 23.03.2020, 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. Learned counsel further submitted that this Court has already set aside the detention order passed against the co-detenu by order dated 02.11.2020 in H.C.P.No.1224 of 2020.

4.On consideration of the submissions made on either side and upon perusal of the documents available on record, especially the confession statement pertaining to the similar case at Page Nos.134 to 136 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 BCDFGISSSV No. 215 of 2020 dated 23.03.2020, passed by the second respondent is set aside. The detenu, namely, Sambath @ R15, male, aged about 27 years, son of Sankar, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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To

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

2.The Commissioner of Police,
Greater Chennai, Vepery, Chennai.

3.The Superintendent of Prison,
Central Prison, Salem.

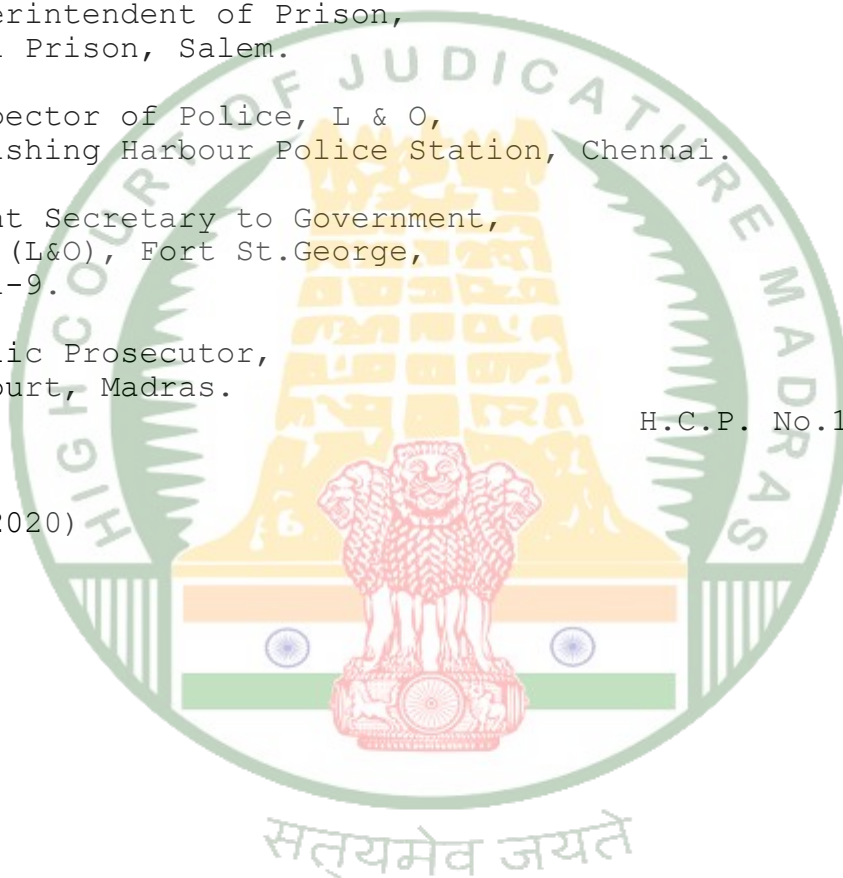
4.The Inspector of Police, L & O,
N-4, Fishing Harbour Police Station, Chennai.

5.The Joint Secretary to Government,
Public (L&O), Fort St.George,
Chennai-9.

6.The Public Prosecutor,
High Court, Madras.

H.C.P. No.1150 of 2020

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