

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2020

Coram

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

H.C.P. No. 1160 of 2020

Padmini ...Petitioner/Mother of the Detenu

Vs.

- 1.The State of Tamil Nadu,
Rep. By the Secretary,
Home, Prohibition and Excise Department,
Fort St. George, Chennai 600 009.
- 2.The Commissioner of Police,
Greater Chennai, The Commissioner Office,
Vepery, Chennai 7.
- 3.The Superintendent of Police,
Central Prison, Puzhal, Chennai 66.
- 4.The Inspector of Police,
H-1, Washermenpet 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 relating to the detention order in Memo No. 196/BCDFGISSSV/2020, dated 16.03.2020, passed by the 2nd respondent under the Tamilnadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's son Madhan @ Jaykumar S/o. Manimaran the detenu, now confined in Central Prison, Puzhal, Chennai before this Court and set the petitioner's son Madhan @ Jaykumar S/o. Manimaran aged about 24 years, the detenu herein set him at liberty.

For Petitioner : Mr. N. Naresh

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 Madhan @ Jaykumar, S/o. Manimaran, aged about 24 years, who is the detenu. The detenu has been detained by the second respondent by his order in Memo No. 196/BCDFGISSSV/2020, dated 16.03.2020, 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.

4. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially Form 91 pertaining to the similar case at Page No.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 Memo No. 196/BCDFGISSSV/2020, dated 16.03.2020 passed by the second respondent is set aside. The detenu, namely, Madhan @ Jaykumar, S/o. Manimaran, aged about 24 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 Commissioner of Police,
Greater Chennai, The Commissioner Office,
Vepery, Chennai 7.
- 3.The Superintendent of Police,
Central Prison, Puzhal, Chennai 66.
- 4.The Inspector of Police,
H-1, Washermenpet Police Station, Chennai.
- 5.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
- 6.The Public Prosecutor,
High Court, Madras.

H.C.P. No.1160 of 2020

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