

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2020

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THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P.No.2083 of 2019

Rekha ... Petitioner/Wife of the detenu

Vs

1. The Government of Tamil Nadu,
Rep.by its Secretary to Government,
Prohibition and Excise Department,
Secretariat, Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai,
Veperi, Chennai 600 007. ... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records relating to the proceedings of the second respondent in B.C.D.F.G.I.S.S.V.No.543/2019 dated 29.08.2019 against petitioner's husband Chittibabu S/o.Vedhachalam, aged about 36 years and quash the same and consequently direct the respondents herein to produce the detenu who is detained under the Tamil Nadu Act 14 of 1982 currently confined at Central Prison, Puzhal before this Court and set him at liberty.

For Petitioner : M/s.P.Anbazhagan

For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor

O R D E R

[Order of this Court was made by R.SUBBIAH, J]

Petitioner is the wife of the detenu viz., Chittybabu, S/o.Vedhachalam, aged 36 years, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in BCDFGISSSV No.543 of 2019 dated 29.08.2019

2. The alleged ground case has been registered against the detenu in Crime No.669 of 2019 on the file of S-11,

Tambaram Police Station for offences u/s.341, 302, 506(ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Heard learned counsel for petitioner and learned Additional Public Prosecutor appearing for respondents. Perused the materials on record.

4. The learned counsel for the petitioner submitted that the detaining authority in arriving at a subjective satisfaction has relied upon the similar case. However, the said order copy has not been furnished to the detenu. The learned counsel informs that the same adversely has affected his right of making an effective representation.

5. Considering the rival submissions made by learned counsel for petitioner, this Court is of the view that non-furnishing of the similar case order, denies him the opportunity of making an effective representation and consequently, his right under Article 22(5) of the Constitution of India stands denied. This would vitiate the order of detention. For the aforesaid reasons, this Court would allow the present petition.

6. Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Chittybabu, S/o.Vedhachalam, in BCDFGISSSV No.543 of 2019 dated 29.08.2019, is quashed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Prohibition and Excise Department,
Secretariat, Chennai 600 009.

2. The Commissioner of Police,
Greater Chennai,
Veperi, Chennai 600 007.

3. The Public Prosecutor,
High Court, Madras.

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