

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2020

CORAM

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

H.C.P.No.2131 of 2019

Dilsath Begum

... Petitioner

Vs

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai 600 009.

2.The Commissioner of Police,
Detaining Authority,
Greater Chennai,
Vepery, Chennai-600 007.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to produce the body of petitioner's brother who is the detenu by name Irfan, aged about 34 years before this Court and set him at liberty forthwith, by calling for the records pertaining to the detention order dated 06.09.2019 made in Memo No.560/BCDFGISSSV/2019 on the file of the second respondent, quash the same.

For Petitioner : Mr.M.Govindaraju

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 sister of the detenu viz., Irfan, S/o.Abdul Rahman, aged about 34 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 Memo No.560/BCDFGISSSV/2019 dated 06.09.2019.

2. The detenu came to adverse notice in the following cases:

Sl.No.	Police Station and Crime No.	Section of Law
1.	Central Crime Branch, Crime No.66/2011	419, 420 r/w.34 IPC
2.	Puducherry CBCID, Crime No.05/2018	467, 471, 379 r/w 34 IPC r/w 511 IPC & 66C of IT Act 2000 @ 120B489A, 489B, 489D, 379, 406, 409, 465, 468, 471 IPC & 66C, 66D of IT Act 2000 r/w 34 IPC

The alleged ground case has been registered against the detenu in Crime No.215 of 2019 on the file of Central Crime Branch for offences u/s. 379, 420 r/w 511 IPC & 66 r/w 43 of Information Technology Act 2000. 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. Learned counsel for petitioner submits that the Detaining Authority has stated in the Arrest Memo at page 121 of the Booklet furnished to the detenu that the arrest in respect of the above case, has been intimated to one Raziya Banu through SMS and an endorsement by the authorities has been made to that effect, but the detaining authority has not furnished any materials to substantiate the fact of serving the Arrest Memo on the said Raziya Banu or any other relatives of the detenu by Thapal or Registered Post. Learned counsel informs that the same adversely has affected his right of making an effective representation.

5. It is a case, among other grounds, where the learned counsel for the petitioner would urge that the arrest of the detenu in the ground case has not been intimated to the family members or the relatives or to the known persons of the detenu as per the procedure laid down. As evidenced from the document in page 121 of the Booklet furnished to us, a mere endorsement is made by the authorities to the effect that the arrest intimation has been informed to the wife of the arrested person through SMS over cell phone bearing No.9944224806; but no materials have been furnished to substantiate that the said intimation was sent through a Thapal or Registered post or as per the procedure laid down. This would vitiate the order of detention. For the aforesaid reasons, this Court would allow the present petition.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Irfan, S/o.Abdul Rahman, in Memo No.560/BCDFGISSSV/2019 dated 06.09.2019, 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 III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai 600 009.
- 2.The Commissioner of Police,
Detaining Authority,
Greater Chennai,
Vepery, Chennai-600 007.
- 3.The Deputy Commissioner of Police-1,
Central Crime Branch.
- 4.The Public Prosecutor,
High Court, Madras.
- 5.The Superintendent, Central prison, Puzhal, Chennai.
- 6.The Joint Secretary to Government,
Public (Law and order) Fort.St.George, Chennai 9.

+1cc to Mr.M.Govindaraju , Advocate SR.No. 3709

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A.SK(26/02/2020)

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