

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

H.C.P.No.2336 of 2019

Nandhini
W/o.Akilan

... Petitioner

Vs

1.State of Tamil Nadu
represented by
Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600009.

2.The Commissioner of Police,
Greater Chennai.

... Respondents

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 detention order passed by second respondent pertaining to the order made in Memo No.598/BCDFGISSSV/2019 dated 16.09.2019 in detaining the detenu under 2 (b) of Tamil Nadu Act 14 of 1982, as a Drug Offender and quash the same and direct the respondent to produce the detenu Akilan S/o.Selvaraj, aged about 26 years, who is detained at Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.O.Chembulingam

For Respondents : Mr.R.Prathap Kumar

Additional Public Prosecutor

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O R D E R

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

Petitioner is the wife of the detenu viz., Akilan S/o.Selvaraj, aged 26 years, who has been branded as a 'Drug Offender' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in Memo No.598/BCDFGISSSV/2019 dated 16.09.2019.

2. The alleged ground case has been registered against the detenu in Crime No.638 of 2019 on the file of K-11 C.M.B.T. Police Station for offences u/s.8(c) r/w 20(b)(ii)(B) of NDPS Act, 1985. 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 page No.89 in the booklet, i.e. Form-95, furnished to the detenu is illegible. Learned counsel informs that the same adversely has affected his right of making an effective representation.

5. When the documents furnished to the detenu are illegible, opportunity of clear understanding and making effective representation in keeping with Article 22(5) of the Constitution of India on such understanding is lost and the detenu is deprived thereof. 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., Akilan S/o.Selvaraj, aged 26 years, in Memo No.598/BCDFGISSSV/2019 dated 16.09.2019, is set aside. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

gm

To

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600009.

2.The Commissioner of Police,
Greater Chennai.

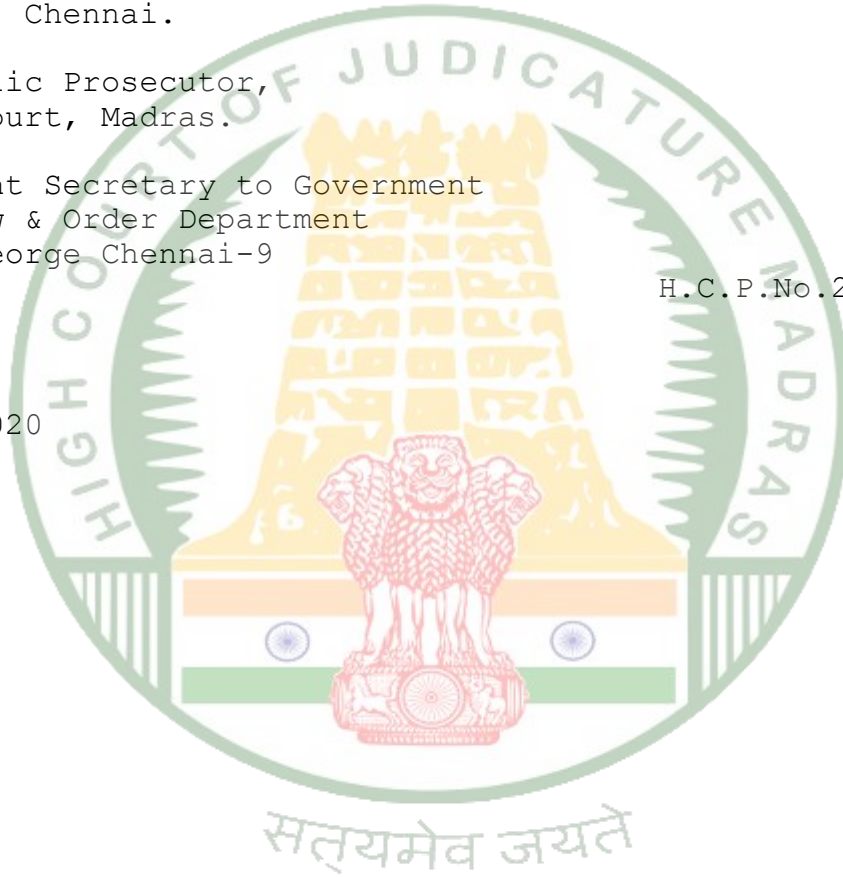
3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.

4.The Public Prosecutor,
High Court, Madras.

5.The Joint Secretary to Government
Public Law & Order Department
Fort St.George Chennai-9

H.C.P.No.2336 of 2019

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