

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2020

CORAM

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

H.C.P.No.2331 of 2019

Chinnakuzhanthai ... Petitioner/Mother of Detenue

Vs

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

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

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 the second respondent pertaining to the order made in Memo No.649/BCDFGISSSV/2019 dated 05.10.2019 in detain the detenue 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 detenue Manjula, W/o.Selvam, aged about 39 years, who is detained at Special Prison for Women, Puzhal, Chennai before this Court and set her 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 mother of the detenue viz., Manjula, W/o.Selvam, aged about 39 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 BCDFGISSSV No.649/2019 dated 05.10.2019.

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

Sl.No.	Police Station and Crime No.	Section of Law
1.	S-8 Adambakkam Police Station, Crime No.729/2018	8(c) r/w 20(b) (ii) (A) NDPS Act, 1985
2.	S-8 Adambakkam Police Station, Crime No.787/2018	8(c) r/w 20(b) (ii) (A) NDPS Act, 1985 r/w 328 IPC

The alleged ground case has been registered against the detenue in Crime No.477 of 2019 on the file of S-8 Adambakkam Police Station for offences u/s. 8(c) r/w 20(b)(ii)(A) 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 the Detaining Authority has stated in the Arrest Memo at page 169 of the Booklet furnished to the detenue that the arrest in respect of the above case, has been intimated to the daughter of the detenue namely, Jeyanthi 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 Jeyanthi or any other relatives of the detenue 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 detenue in the ground case has not been intimated to the family members or the relatives or to the known persons of the detenue as per the procedure laid down. As evidenced from the document in page 169 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 one Jeyanthi, daughter of the arrested person, 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 detainee viz., Manjula, W/o.Selvam, in BCDFGISSSV No.649/2019 dated 05.10.2019, is set aside. The above named detainee is ordered to be set at liberty forthwith, unless her custody is required in connection with any other cases.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to Government,
State of Tamil Nadu
Home, Prohibition and Excise Department,
Fort St. George, Chennai 600 009.
- 2.The Commissioner of Police,
Greater Chennai.
- 3.The Superintendent,
Special Prison for Women,
Puzhal, Chennai-66.
- 4.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
- 5.The Public Prosecutor,
High Court, Madras.

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