

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2020

CORAM

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

H.C.P.No.2419 of 2019

Perumal ... Petitioner/Father of the 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.667/BCDFGISSSV/2019 dated 12.10.2019 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 respondents to produce the detenue Pandeewari W/o.Krishnasamy, aged about 35 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

O R D E R

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

Petitioner is the father of the detenue viz., Pandeewari W/o.Krishnasamy, aged about 35 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.667/BCDFGISSSV/2019 dated 12.10.2019.

2. The alleged ground case has been registered against the detenue in Crime No.88 of 2019 on the file of N.I.B., C.I.D., Chennai Unit for offences u/s. 8(c) r/w 20(b)(ii)(C), 27(A) and 29(1) 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 No.91 of the Booklet furnished to the detinue that the arrest in respect of the above case, has been intimated to the father of the detinue namely, Perumal Devar 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 Perumal Devar or any other relatives of the detinue by Thapal or Registered Post. Learned counsel informs that the same adversely has affected her 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 detinue in the ground case has not been intimated to the family members or the relatives or to the known persons of the detinue as per the procedure laid down. As evidenced from the document in page 91 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 Perumal Devar, father of the arrested person through Cell No.7502998662, 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 detinue viz., Pandeewari, W/o. Krishnasamy in Memo No.667/BCDFGISSSV/2019 dated 12.10.2019, is set aside. The above named detinue 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

vga
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 and order) Fort.St.George, Chennai 9.

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2419 of 2019

A.SK(20/03/2020)



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