

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2020

CORAM

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

H.C.P.No.2427 of 2019

Masthani
W/o.Ganesan

... Petitioner/
Mother of the
detenue

Vs

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, 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 in connection with the order of detention passed by second respondent dated 18.10.2019 in Memo No.695/BCDFGISSSV/2019 against the petitioner's son viz., Sathya, Male, aged 30 years, S/o.Ganesan, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenue before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel
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 detenu viz., Sathya S/o.Ganesan, aged 30 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.695/BCDFGISSSV/2019 dated 18.10.2019.

2. The alleged ground case has been registered against the detenu in Crime No.880 of 2019 on the file of H1 Washermenpet Police Station, for offences u/s.8(c) r/w 20(b)(ii)(c) 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.32 i.e. seizure mahazar in the ground case, in the booklet 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., Sathya S/o.Ganesan, in Memo No.695/BCDFGISSSV/2019 dated 18.10.2019, 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/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm

To

1. The Secretary to the Government, Home, Prohibition and Excise Department, Secretariat, Chennai - 600009.

2.The Commissioner of Police, Greater Chennai.

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

4.The Public Prosecutor,High Court, Madras.

H.C.P.No.2427 of 2019

NMI (CO)

RPP (22/05/2020)