

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

H.C.P.No.2522 of 2019

Sankereswari ... Petitioner/Sister of the Detenue
Vs

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus, calling for the records in connection with the detention order passed by the second respondent dated 03.10.2019 in Memo No.641/BCDFGISSSV/2019 against the petitioner's brother Anguraj, male aged 38 years, S/o.Shanmugaraj, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu 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 the court was made by N.KIRUBAKARAN.J.,)

The petitioner's brother has been branded as 'Goonda' under Tamil Nadu Goondas Act 14 of 1982 by virtue of order dated 03.10.2019 passed by the second respondent and he has been detained at Central Prison, Puzhal, Chennai. The said order is challenged before this Court.

2.Heard Mr.S.Senthilvel, learned Counsel appearing for the

petitioner and Mr.R.Prathap Kumar, learned Additional Public Prosecutor appearing for the respondents.

3.It is seen from the records that there are about five adverse cases and one ground case registered against the detenu. It is contended by the learned Counsel for the petitioner that the detenu was arrested in the ground case on 12.09.2019 and he was remanded till 27.09.2019 and the same was extended up to 14.10.2019. While he was in judicial custody, he was again formally arrested in connection with the adverse cases. The learned Counsel for the petitioner contended that with regard to re-arrest, no intimation has been given either to his close relatives or friends. Further, he submitted that there is no proper translation of the detention order. Therefore, he contended that the detention order is vitiated on the above grounds and sought for allowing this Petition.

4.However, the learned Additional Public Prosecutor supported the detention order passed by the second respondent and opposed the contention of the learned Counsel for the petitioner that correct translated copy of the detention order has been given and sought for dismissal of this petition.

5.On perusal of the records, it is found from the arrest memo that no intimation has been given either to the close relative or friend which is mandated under Section 50 A of Criminal Procedure Code. Hence, the detention order passed by the second respondent is vitiated and the same is set aside.

6.Accordingly, this petition is allowed. The detenu viz., Anguraj, male aged 38 years, S/o.Shanmugaraj, who is confined at Central Prison, Puzhal, Chennai is set at liberty.

7.Further, this Court directs the second respondent / Commissioner of Police to take action against the official who has failed to inform about the arrest of the detenu to his close relative or friend as per Section 50 A of Criminal Procedure Code. The action taken report is directed to be submitted within a period of eight weeks from the date of receipt of a copy of this Order.

Sd/-

Assistant Registrar (CO MDU)

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Sub Assistant Registrar

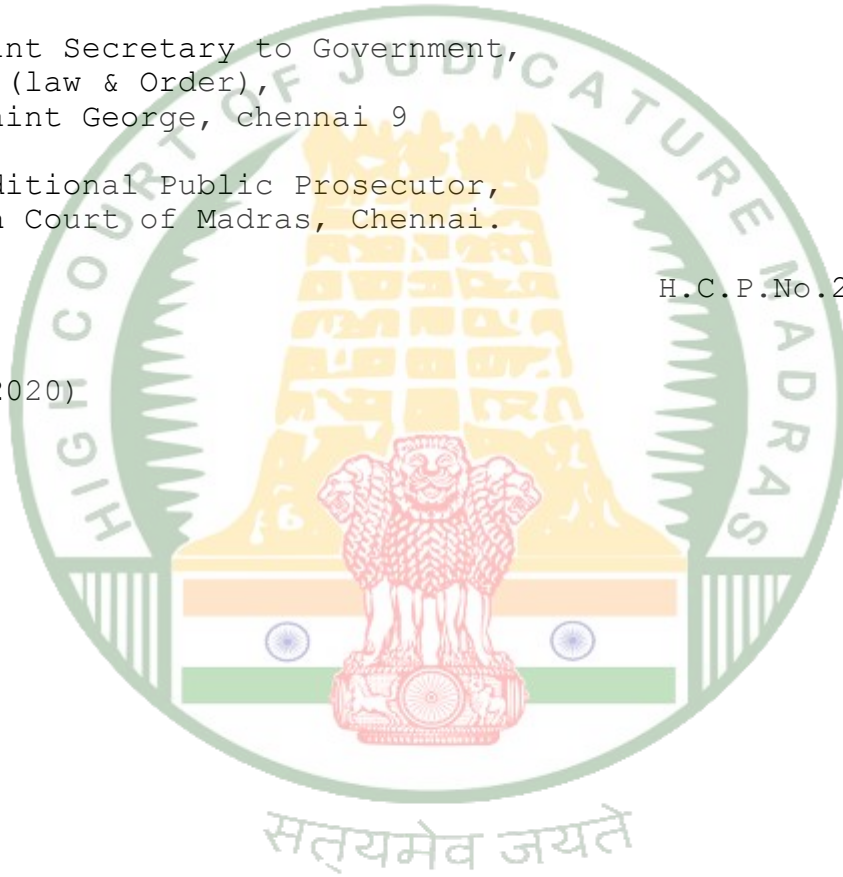
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To

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai.
3. The Superintendent,
Central Prison,
Puzhal, Chennai.
4. The Joint Secretary to Government,
Public (law & Order),
Fort Saint George, Chennai 9
5. The Additional Public Prosecutor,
High Court of Madras, Chennai.

H.C.P.No.2522 of 2019

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