

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.2569 of 2019

Deepika ... Petitioner/Wife of Detenu

Vs

1. The State of Tamil Nadu,
Rep. by its Secretary to Government Home,
Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
The Commissioner Office,
Vepery, Chennai - 600 007. ... 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 relating to the detention order in Memo No.559/BCDFGISSSV/2019, dated 04.09.2019 passed by the second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's husband Elumalai, the detenu, now confined in Central Prison, Puzhal, Chennai, before this Hon'ble Court and set the petitioner's husband Elumalai son of Kuppan aged about 28 years, the detenu herein at liberty.

For Petitioner : Mr.M.Baskar

For Respondents: Mr. R. Prathap Kumar,
Additional Public Prosecutor.

O R D E R

(Order of the court was made by N.KIRUBAKARAN.J.,)

The petitioner's husband Elumalai has been detained under Tamil Nadu Act 14 of 1982 by virtue of Order dated 04.09.2019 passed in Memo No.559/BCDFGISSSV/2019 by branding him as

'Goonda' and the said detention order is being challenged before this Court.

2. Heard Mr.B.Baskar, learned Counsel appearing for the petitioner and Mr.R.Prathap Kumar, learned Additional Public Prosecutor appearing for the respondents.

3. The learned Counsel for the petitioner would submit that the detenu has got two cases viz., one adverse case and one ground case and in both the cases, he has been arrested on 06.08.2019 and would submit that the copies of the proceedings furnished to the petitioner are illegible documents and in both the cases, bail petitions are pending and there is no imminent possibility of the detenu for coming out on bail. Therefore, he submits that the detention order is vitiated and he seeks for allowing this petition. However, the learned Additional Public Prosecutor supported the detention order and sought for dismissal of this petition.

4. A cursory perusal of the detention order would reveal that the petitioner was arrested on 06.08.2019. Further the bail petitions filed by the petitioner in both the cases are pending and there is no imminent possibility for the detenu for coming out on bail. Though the learned Counsel for the petitioner contended that the copies furnished are illegible, this Court is not convinced with the said ground.

5. However, it is seen that the copy of the detention order has been given in English. Since the petitioner's husband has studied only till eighth standard, it may not be possible for him to understand the contents of the said order. Therefore, there is no proper supply of documents.

6. Hence, on the ground of non-supply of relevant documents in the language known to the detenu as well as to the petitioner and on the ground of non-satisfaction of the detaining authority with regard to the least possibility of the detenu for coming out on bail while passing the detention order, the detention order passed in Memo No.559/BCDFGISSSV/2019 is quashed and accordingly, the detenu viz., Elumalai S/o Kuppan, aged about 28 years, confined at Central Prison, Puzhal, Chennai is set at liberty.

7. In the result, this petition is allowed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,
Chennai - 600 009.
2. The Joint Secretary to Govt,Public (Law & Order),
Fort St.George, Chennai-9.
3. The Commissioner of Police / Greater Chennai,
O/o the Commissioner of Police,
Vepery,Chennai-7.
4. The Superintendent,Central Prison,
Puzhal,Chennai.
5. The Public Prosecutor,
High Court of Madras,
Chennai.

H.C.P.No.2569 of 2019

MR (CO)
GS (03/06/2020)

सत्यमेव जयते

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