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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.05.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Ms. Justice P.T.ASHA

H.C.P.No.2633 of 2019

Haseena

... Petitioner

-vs-

1.The State of Tamil Nadu,
rep. by its Secretary of Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Police,
Salem City.

3.The Superintendent,
Central Prison,
Salem-7.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the records leading to the detention of petitioner's husband Alaudeen, aged 32 years, son of Sheik Ali, Ammasi Nagar, Thiruvagoundanur Bypass, Salem City, presently detained in Central Prison, Salem, under Act 14/1982, as a "GOONDA" vide the detention order dated 29.10.2019 in C.M.P.No.42/GOONDA/Salem City/2019 on the file of the 2nd respondent herein, directing to produce the person or body of the Detenu before this Hon'ble Court and thereafter set him at liberty from the Central Prison, Salem by set aside the above order.

For Petitioner .. Mr.B.Vasudevan
For Respondents .. Mr.R.Prathap Kumar,
Addl. Public Prosecutor

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner is the wife of Alaudeen, aged 32 years, son of Sheik Ali, who is the detenu. The detenu has been detained by the second respondent by his order in C.M.P.No.42/"GOONDA"/Salem



City/2019 dated 29.10.2019, holding him to be a "Goonda", as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

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2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the detaining authority, while detaining the detenu, has not furnished the legible copies of the documents relied on by him. This deprived the detenu from making effective representation. Therefore, on this sole ground, the detention order is liable to be quashed.

4. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially the inquest report at Page No.59 of the booklet, it is clear that the detaining authority, by providing illegible copies of the documents, has taken away the rights of detenu to effectively defend himself against his detention. Thus the impugned detention order is liable to be set aside on this ground.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.42/Goonda/Salem City/2019 dated 29.10.2019, passed by the second respondent is set aside. The detenu, namely, Alaudeen, aged 32 years, son of Sheik Ali, is directed to be released forthwith unless his detention is required in connection with any other case.

s/d-
Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

mmi/ms

To

1. The Secretary of Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.



2.The Commissioner of Police,
Salem City.

3.The Superintendent,
Central Prison,
Salem-7.(Induplicate for communication to the Detenue)

4.The Joint Secretary to Govt,
Public (law & order)
Fort sr.George, Chennai-9.

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2633 of 2019

KK(CO)
RMP(14/07/2020)