

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice D.KRISHNAKUMAR

H.C.P. No. 2752 of 2019

David Raja
S/o.Thanga Nagar
No.333, Adaiyar Revarpet
Kolapakkam, Chennai. Petitioner

vs-

- 1.The State of Tamilnadu
Rep. By its Additional Chief Secretary to
Government Home
Prohibition and Excise Department
Chennai - 600 009.
- 2.The Commissioner of Police
Greater Chennai City
Vepery, Chennai - 600 007. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus to call upon the production of the records relating to the detention order dated on 09.11.2019 made in detention order Memo No.BCDFGISSSV/771/2019 passed by the 2nd respondent herein, quash the same and direct the respondents to produce the body or person of the detenu Sunil Gond, S/o. Nandlal Gond, aged about 25 years branded as Goonda and now confined in Central Prison, Puzhal, Chennai, before this Court and set him at liberty forth.

For Petitioner : Mr.P.Sundara Rajan

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 friend of Sunil Gond, S/o. Nandlal Gond, aged about 25 years, who is the detenu. The detenu has

been detained by the second respondent by his order in Memo No.BCDFGISSSV/771/2019 dated 09.11.2019, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents and we have also perused the records carefully.

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 confession statement in similar case at Page Nos.198 to 201 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 Memo No.BCDFGISSSV/771/2019 dated 09.11.2019 passed by the second respondent is set aside. The detenu, namely, Sunil Gond, S/o. Nandlal Gond, aged about 25 years is directed to be released forthwith unless his detention is required in connection with any other case.

सत्यमेव जयते

Sd/-

Assistant Registrar (AD I MDU)

//True Copy//

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Sub Assistant Registrar

raa/mmi/ssm

To

1.The Additional Chief Secretary to
Government Home
Prohibition and Excise Department
Chennai - 600 009.

2.The Commissioner of Police
Greater Chennai City
Vepery, Chennai - 600 007.

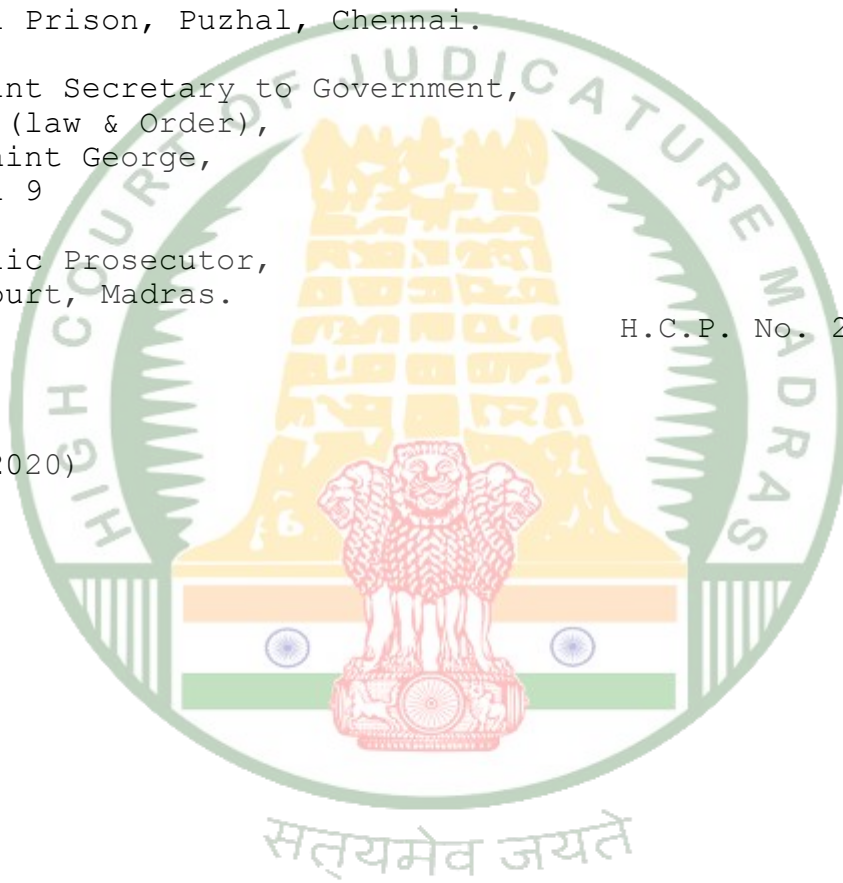
3.The Superintendent,
Central Prison, Puzhal, Chennai.

4. The Joint Secretary to Government,
Public (law & Order),
Fort Saint George,
Chennai 9

5.The Public Prosecutor,
High Court, Madras.

H.C.P. No. 2752 of 2019

RLD(CO)
GN(30/07/2020)



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