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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.05.2020

Coram

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

H.C.P. No.2750 of 2019

Devi

... Petitioner

-vs-

1.The Secretary to Government,
Home, Prohibition and Excise Dept.,
Secretariat, Fort.St.George,
Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai, Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 09.11.2019 in No.770/BCDFISSSV/2019 against the petitioner's husband Mr.Gopi, male aged about 48 years son of Angamuthu, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before the Court and set him at liberty.

For Petitioner .. Mr.M.Illiyas

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 Gopi, male, aged 48 years, S/o.Angamuthu who is the detenu. The detenu has been detained by the second respondent by his order in No.770/BCDFISSSV/2019, dated 09.11.2019, holding him to be a "Drug Offender", as contemplated under Section 2(e) 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. 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, it is clear that the detaining authority, by providing illegible copy of the handwritten arrest report, 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.770/BCDFISSSV/2019 dated 09.11.2019, passed by the second respondent is set aside. The detenu, namely, Gopi, male, aged 48 years, S/o. Angamuthu is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

mmi/ms

To

1. The Secretary to Government,
Home, Prohibition and Excise Dept.,
Secretariat, Fort.St.George,
Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Chennai.
3. The Superintendent,
Central Prison,
Puzhal, Chennai.



4. The Joint Secretary to Government,
Public (Law and Order)
Fort.St.George,
Chennai - 600 009.

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5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2750 of 2019

AD (CO)
GMY (14/07/2020)