

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2020

Coram

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

H.C.P. No. 2809 of 2019

Sandhiya

... Petitioner

-vs-

1.State of Tamil Nadu
Rep. By the Secretary Home
Prohibition and Excise Department
Fort St.George Chennai - 600 009.

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

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus calling for the records of the Memo No.809/BCDFGISSSV/2019 dated 26.11.2019 on the file of Second Respondent and quash the same and produce the petitioner's son Ganesh S/o.Elumalai, aged 23 years confined at Central Prison, Puzhal before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.N.Arunkumar

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 mother of Ganesh, S/o.Elumalai, aged 23 years, who is the detenu. The detenu has been detained by the second respondent by his order in Memo No.809/BCDFGISSSV/2019 dated 26.11.2019, 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 copy of the accident register pertaining to the third adverse case at Page Nos. 107 and 109 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. 809/BCDFGISSSV/2019 dated 26.11.2019 passed by the second respondent is set aside. The detenu, namely, Ganesh, S/o. Elumalai, aged 23 years is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

raa/mmi/ssm

To

1. The Secretary,
Home, Prohibition and Excise Department
Fort St. George
Chennai - 600 009.

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

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

4.The Joint Secretary to Government,
Public (Law & Order) Department,
Fort St.George, Chennai.

5.The Public Prosecutor,
High Court, Madras.

H.C.P. No. 2809 of 2019

RSV(CO)
RMP(24/07/2020)



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