

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.07.2021

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE Mr.JUSTICE R.PONGIAPPAN

H.C.P.No.19 of 2021

Aishwariya . Petitioner/Sister of detenu

Vs.

1.The State of Tamil Nadu
Rep. by its Secretary to Government
Prohibition and Excise Department (Home)
Secretariat, Chennai-9

2.The Commissioner of Police
Chennai City, Vepery, Chennai-7

3.The Superintendent of Prison
Central Prison, Puzhal, Chennai-66

4.The Inspector of Police
J-11 Kannagi Nagar Police Station
Chennai

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to call for the records relating to the detenu's detention order passed by the 2nd respondent dated 12.08.2020 in BCDFGISSSV No.283/2020 and set aside the same and produce the detenu Prabakaran @ Praba @ Psycho, aged 28 years, S/o.Jeeva, now detained in Central Prison, Puzhal, Chennai before this Hon'ble Court and set him at liberty.

For Petitioner : Ms.S.Dhanasekar

For Respondents : Mr.R.Muniyapparaj
Government Advocate (Crl. Side)

O R D E R

[Order of the Court was made by P.N.PRAKASH, J.]

The petitioner is the sister of the detenu viz., Prabakaran @ Praba @ Psycho, aged 28 years, S/o.Jeeva. The detenu has been detained by the 2nd respondent by his order dated 12.08.2020 in BCDFGISSSV No.283/2020, 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 Government Advocate (Crl. Side) appearing for the respondents and we have also perused the records carefully.

3. Though several grounds have been raised, learned counsel for the petitioner mainly focused his arguments on the ground that the remand extension order pertaining to the ground case placed before the detaining authority has not been furnished to the detenu, which caused great prejudice to the detenu and he has been prevented from making an effective representation for consideration of the authorities concerned. Therefore, the impugned order of detention is vitiated in law.

4. The learned Government Advocate (Crl. Side) strongly opposed the habeas corpus petition by filing his counter.

5. A perusal of the booklet would go to show that the remand extension order pertaining to the ground case placed before the detaining authority has not been enclosed in the booklet furnished to the detenu. Therefore, non-furnishing of the above material would obviously deprive of his opportunity to make effective representation and hence, we are of the opinion that the detention order is liable to be quashed on this ground.

In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.283/2020, dated 12.08.2020, passed by the 2nd respondent is set aside. The detenu viz., Prabakaran @ Praba @ Psycho, aged 28 years, S/o.Jeeva, is directed to be released forthwith, unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

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To

1.The Secretary to Government
Prohibition and Excise Department (Home)
Secretariat, Chennai-9

2.The Joint Secretary to Government
Public, Law and Order Department
Secretariat, Chennai-9

3.The Commissioner of Police
Chennai City, Vepery
Chennai-7

4.The Superintendent of Prison
Central Prison, Puzhal
Chennai-66

5.The Inspector of Police
J-11 Kannagi Nagar Police Station
Chennai

6.The Public Prosecutor
High Court, Madras

H.C.P.No.19 of 2021

PVS (CO)
GMY (05/07/2021)



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