

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2021

Coram

THE HON'BLE MR. JUSTICE P.N.PRAKASH
AND
THE HON'BLE MR. JUSTICE V.SIVAGNANAM

H.C.P. No. 1075 of 2020

Saira Banu

.. Petitioner

Vs

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George, Chennai - 9.
- 2.The Commissioner of Police/
Detaining Authority,
City Police Office, Huzur Road,
Coimbatore City,
Coimbatore - 18.
- 3.The Superintendent of Prison,
Central Prison-Coimbatore,
Coimbatore District.
- 4.State Rep. by its
The Inspector of Police,
D4 Kuniamuthur Police Station,
Law & Order,
Coimbatore District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Habeas Corpus to call for the entire records, relating to the petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 17.06.2020 on the file of the second respondent herein made in proceedings Memo C.No.41/G/IS/2020, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely J.Nisarudeen @ Arath Nisar, S/o.Jamesha, aged 25 years, before this Court and set the petitioner's son at

liberty from detention, now the petitioner's son detained at Central Prison, Coimbatore.

For Petitioner : Mr.W.Camyles Gandhi

For Respondents : Mr.R.Prathap Kumar,
Addl.Public Prosecutor

ORDER

[Order of the Court was made by V.SIVAGNANAM, J.]

The petitioner is the mother of the detenu, J.Nisarudeen @ Arath Nisar, S/o.Jamesha, aged 25 years. The detenu has been detained by the second respondent by his order in Memo C.No.41/G/IS/2020, dated 17.06.2020 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 Additional Public Prosecutor appearing for the respondents and we have also perused the records carefully.

3.Though the 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 remand order has not been properly translated in vernacular language. He further submitted 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 these grounds, 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 Page Nos.139 & 140 of the booklet, it is clear that the remand order has not been properly translated in vernacular language. Further, on a perusal of the arrest intimation pertaining to the adverse case at Page No.19 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 C.No.41/G/IS/2020, dated 17.06.2020, passed by the second respondent is set aside. The detenu, namely, J.Nisarudeen @ Arath Nisar, S/o.Jamesha, aged 25

years, 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

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George, Chennai - 9.
- 2.The Commissioner of Police/ Detaining Authority,
City Police Office, Huzur Road,
Coimbatore City, Coimbatore - 18.
- 3.The Superintendent of Prison,
Central Prison-Coimbatore,
Coimbatore District.
- 4.The Inspector of Police,
D4 Kuniamuthur Police Station,
Law & Order, Coimbatore District.
- 5.The Public Prosecutor,
High Court, Madras.
- 6.The Joint Secretary to Government,
Public, Law & Order Department,
Secretariat, Chennai-9

AK(CO)
SM/04/03/2021

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