

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2021

Coram

The Honourable Mr. Justice P.N.PRAKASH
and
The Honourable Mr. Justice R.PONGIAPPAN

H.C.P.No.1225 of 2020

S.Krishnaveni

.. Petitioner

Vs.

1.The Secretary to Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.

2.The Commissioner of Police,
Salem City, Salem - 636 006.

3.The Inspector of Police,
All Women Police Station,
Ammamet, Salem.

4.The Superintendent of Prison,
Central Prison,
Salem.

.... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records pertaining to the order dated 23.06.2020 made in C.M.P.No.41/Sexual Offender/Salem City/2020 on the file of the Commissioner of Police, Salem City, Salem, the second respondent herein and quash the same and produce the detenu Kumar @ Sivakumar, aged about 40 years, son of Annamalai, before this Court and set him at liberty.

For Petitioner

: Mr.A.V.Arun

For Respondents

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

ORDER

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

The petitioner is the wife of Kumar @ Sivakumar, aged about 40 years, son of Annamalai, who is the detenu. The detenu has been detained by the second respondent by his order in C.M.P.No.41/Sexual Offender/Salem City/2020 dated 23.06.2020, holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) 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. The ground case relates to the rape of a victim girl by two persons in the first floor portion of a house belonging to one Swaminathan on 23.05.2020 at 10.00 p.m. While that being so, in paragraph no.4 of the grounds of the detention order, it is stated as if the crime had been committed in a busy area and that created an alarm and a sense of insecurity in the minds of the general public of the area. This shows non-application of mind on the part of the detaining authority in passing the order of detention. Therefore, the impugned detention order is liable to be quashed.

In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.41/Sexual Offender/Salem City/2020 dated 23.06.2020, passed by the second respondent is set aside. The detenu, viz., Kumar @ Sivakumar, aged about 40 years, son of Annamalai, 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

nsd

To

1.The Secretary to Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.

2.The Commissioner of Police,
Salem City, Salem - 636 006.

3.The Inspector of Police,
All Women Police Station,
Ammamet, Salem.

4.The Superintendent of Prison,
Central Prison,
Salem.

5.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.

6.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.A.V.Arun, Advocate, S.R.No.23271

H.C.P.No.1225 of 2020

JPL(CO)
CB(27/04/2021)



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