

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2021

Coram

The Hon'ble Mr. Justice P.N.PRAKASH
and
The Hon'ble Mr. Justice V.SIVAGNANAM

H.C.P. No. 1340 of 2020

Amutha

.. Petitioner

Vs.

1. State of Tamil Nadu
Rep. By The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 09.
2. The District Magistrate and District Collector,
Salem District, Salem.
3. The District Superintendent of Police,
Salem District, Salem.
4. The Superintendent of Prison,
Central Prison, Salem.
5. The Inspector of Police,
Mallur Circle, Salem District. ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Habeas Corpus to call for the records pertaining to the order of detention passed by the second respondent in C.M.P.No.04/GOONDA/C2/2020 dated 17.06.2020 against the petitioner Amutha Ravi's on the detenu by name Kazhuthaibalu @ Ramesh, male, 25/2020, son of Ravi, now confined in Central Prison, Salem and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.T.Muruganantham
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 mother of the detenu, Kazhuthaibalu @ Ramesh, son of Ravi, aged about 25 years. The detenu has been

detained by the second respondent by his order in C.M.P.No.04/GOONDA/C2/2020 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. We have also perused the records produced by the Detaining Authority.

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner mainly contended that though the detenu was remanded to judicial custody on 22.05.2020, in the remand order enclosed in the booklet, both in English and vernacular version, the date was shown as 05.06.2020. Learned counsel for the petitioner submitted that this shows clear non-application of mind on the part of the detaining authority and therefore, the detention order is liable to be quashed on this ground.

4. On a perusal of the remand order, it is seen that though the detenu was remanded to judicial custody on 22.05.2020, the date was mentioned as 05.06.2020, which prevented the detenu from making an effective representation for redressal of his grievance. This would show that the detaining authority has passed the impugned order of detention in a mechanical manner and without application of mind. Therefore, on this sole ground, the order of detention is liable to be quashed.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.04/GOONDA/C2/2020 dated 17.06.2020, passed by the second respondent is set aside. The detenu, namely, Kazhuthaibalu @ Ramesh, son of Ravi, aged about 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

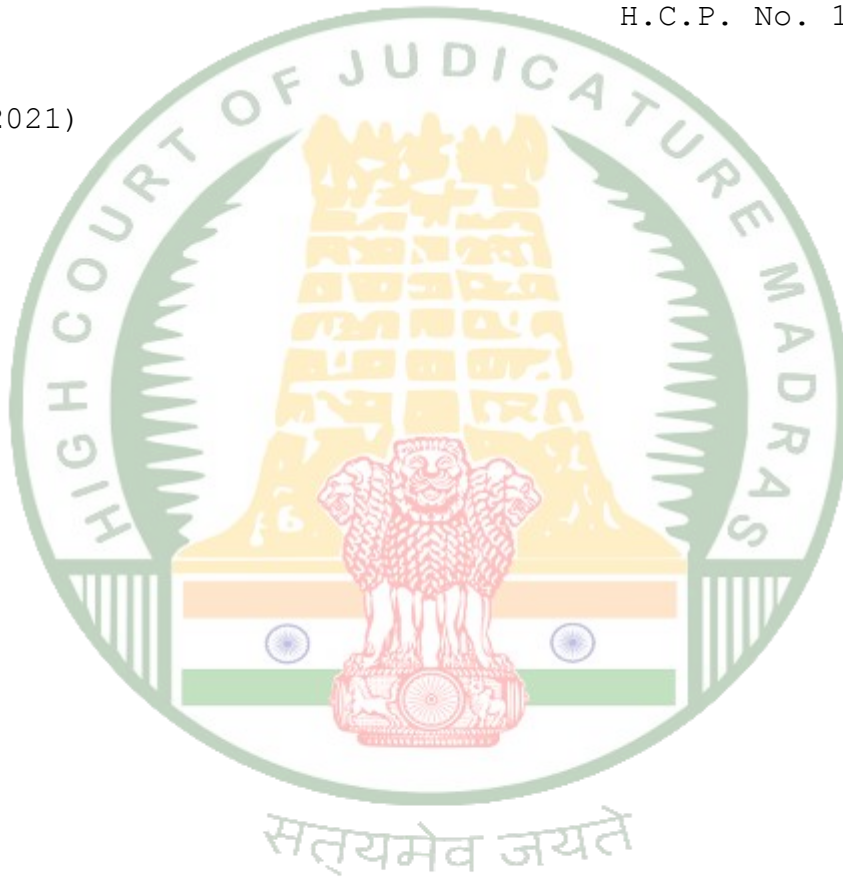
To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 09.
2. The District Magistrate and District Collector,
Salem District, Salem.

3. The District Superintendent of Police,
Salem District, Salem.
4. The Superintendent of Prison,
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5. The Inspector of Police,
Mallur Circle, Salem District.
6. The Public Prosecutor,
High Court, Madras.

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MMI (CO)
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