

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. 1394 of 2020

Maheswari

.. Petitioner /
Member of the Detenu

Vs.

- 1.The Secretary to Government (Home),
Prohibition and Excise Department,
Secretariat, Chennai - 9.
- 2.The District Collector and Magistrate,
Nagapattinam District,
Nagapattinam.
- 3.The Superintendent of Police,
Nagapattinam District, Nagapattinam.
- 4.The Superintendent,
Central Prison, Thiruchirapalli.
- 5.The Inspector of Police,
Mayiladuthurai Police Station,
Nagapattinam 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 relating to the detention order in Memo No.C.O.C.No.17/2020 dated 22.06.2020 passed by the second respondent under Section 2(f) of Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's son Sasikumar, S/o.Umapathi, aged about 21 years, the detenu, now confined in Central Prison, Thiruchirapalli before this Court and set the petitioner's son Sasikumar, S/o.Umapathi, aged about 21 years, the detenu herein at liberty.

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For Petitioner : Mr.K.S.Vishnu Prasad

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, Sasikumar, S/o.Umapathi, aged about 21 years. The detenu has been detained by the second respondent by his order in C.O.C.No.17/2020 dated 22.06.2020 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.Learned counsel for the petitioner submitted that the detention order was passed on 22.06.2020 whereas the booklet has been served on the detenu only on 01.07.2020, which is beyond the period specified under Section 8(1) of the Tamil Nadu Act 14 of 1982, as could be seen from the endorsement made by the prison authorities thereon. This prevented the detenu from making effective representation and therefore, the detention order is liable to be quashed on this ground.

4.We have perused the booklet. As rightly submitted by the learned counsel for the petitioner, under Section 8(1) of the Tamil Nadu Act 14 of 1982, the papers are required to be served on the detenu within 5 days from the date of execution of the detention order. In this case, the detention order was executed against the detenu on 22.06.2020 whereas the copies were served on him only on 01.07.2020, which is beyond the period of 5 days prescribed by Section 8(1) of the Tamil Nadu Act 14 of 1982. 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.O.C.No.17/2020 dated 23.06.2020, passed by the second respondent is set aside. The detenu, namely, Sasikumar, S/o.Umapathi, aged about 21 years, is

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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

mmi

To

- 1.The Secretary to Government (Home),
Prohibition and Excise Department,
Secretariat, Chennai - 9.
- 2.The District Collector and Magistrate,
Nagapattinam District, Nagapattinam.
- 3.The Superintendent of Police,
Nagapattinam District, Nagapattinam.
- 4.The Superintendent,
Central Prison, Thiruchirapalli.
- 5.The Inspector of Police,
Mayiladuthurai Police Station,
Nagapattinam District.
- 6.The Joint Secretary to Govt.,
Public (Law & Order) Fort St.George,
Chennai-9.
- 7.The Public Prosecutor,
High Court, Madras.

LN (CO)
CB (16/02/2021)

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