

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2021

Coram

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

H.C.P. No.1572 of 2020

Selvi

... Petitioner

-vs-

1.The Additional Chief Secretary to
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai Police,
Office of the Commissioner of Police,
Vepery, Chennai - 600 007.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus or any other Writ or Order in the nature of Writ call for the records of the second respondent in connection with the order of detention passed by him vide Memo No.263/BCDFGISSSV/2020 dated 30.07.2020 against the detenu and set aside the same and direct the respondents to produce the detenu Aravindh, aged about 24 years, S/o.Ravi, now confined at Central Prison, Puzhal, Chennai - 600 066, before this Court, Chennai, and set him at liberty.

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For Petitioner : Mr.N.Kannan

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 Aravindh, aged about 24 years, S/o.Ravi, who is the detenu. The detenu has been detained by the second respondent by his order in Memo No.263/BCDFGISSSV/2020 dated 30.07.2020, 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, learned counsel for the petitioner mainly focused his arguments on the ground that the documents relied on by the detaining authority have 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.A perusal of the booklet would go to show that the documents relied on by the detaining authority viz., confession statement of one Deena and the recovery mahazars, which have been referred to in page no.5 of the ground of detention order have not been enclosed in the booklet furnished to the detenu. Therefore, non-furnishing of the above materials 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.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in Memo No.263/BCDFGISSSV/2020 dated 30.07.2020, passed by the second respondent is set aside. The detenu, namely, Aravindh, aged about 24 years, S/o.Ravi, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

nsd

To

1.The Additional Chief Secretary to
Government of Tamil Nadu
Home, Prohibition and Excise Department
Secretariat, Chennai - 600 009

2.The Commissioner of Police
Greater Chennai Police
Office of the Commissioner of Police
Vepery, Chennai - 600 007

3.The Joint Secretary to Government,
Public (Law and order) Fort.St.George, Chennai 9.

4.The The Superintendent, Central prison, Puzhal, Chennai 66.

5.The Public Prosecutor
High Court, Madras

H.C.P. No.1572 of 2020

A.SK(16.03.2021)



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