

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2021

Coram

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

H.C.P.No.1704 of 2020

Arbiya Sulthana .. Petitioner /wife of the detenu
Vs.

- 1.State represented by
The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
- 2.The District Collector and
District Magistrate,
Krishnagiri District, Krishnagiri.
- 3.The Superintendent of Police,
Krishnagiri District, Krishnagiri.
- 4.The Inspector of Police,
Hosur Town Police Station,
Krishnagiri District.
- 5.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 to call for the records in S.C.No.35/2020 dated 07.08.2020 on the file of the second respondent and quash the detention as illegal and direct the respondents to produce the detenu Nawas, son of Usman, aged about 35 years, now confined in Central Prison, Salem, before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Rajanikanth

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 Nawas, son of Usman, aged about 35 years, who is the detenu. The detenu has been detained by the second respondent by his order in S.C.No.35/2020 dated 07.08.2020, 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 dismissal order of bail pertaining to the ground case has not been 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 No.270 of the booklet, it is clear that the dismissal order of bail pertaining to the ground case has not been translated in vernacular language. 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 S.C.No.35/2020 dated 07.08.2020, passed by the second respondent is set aside. The detenu, viz., Nawas, son of Usman, aged about 35 years, 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

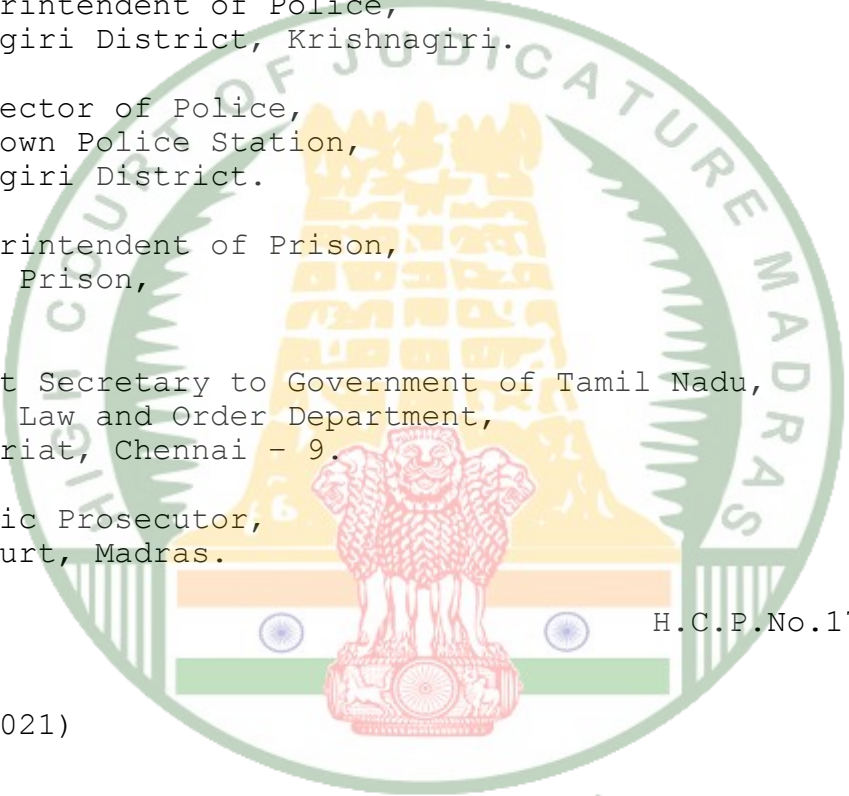
nsd

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
- 2.The District Collector and
District Magistrate,
Krishnagiri District, Krishnagiri.
- 3.The Superintendent of Police,
Krishnagiri District, Krishnagiri.
- 4.The Inspector of Police,
Hosur Town Police Station,
Krishnagiri District.
- 5.The Superintendent of Prison,
Central Prison,
Salem.
- 6.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.
- 7.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1704 of 2020

SS III (CO)
CB(27/04/2021)



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