

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.1756 of 2020

Ganga,
D/o.Srinivasan

... Petitioner /
Sister of the detenu

versus

1.State of Tamil Nadu.

Rep. By The Secretary,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.

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

3.The Superintendent of Police
Central Prison, Puzhal,
Chennai - 600 066.

4.The Inspector of Police
V-1, Villivakkam Police Station,
Chennai - 600 118.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records relating to the detention order in Memo No.288/BCDFGISSSV/2020 dated 13.08.2020 passed by the second respondent under the Tamilnadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's brother Om Prakash, son of Srinivasan, the detenu, now confined in Central Prison, Puzhal, Chennai, before this Court and set the petitioner's brother Om Prakash, son of Srinivasan, aged about 26 years, the detenu herein set him at liberty.

For Petitioner : Mr.N.Naresh

For Respondents : Mr.R.Prathap Kumar
Additional Public Prosecutor

O R D E R

[Order of the Court was made by R.PONGIAPPAN, J.]

The petitioner is the sister of Om Prakash, son of Srinivasan, aged about 26 years, who is the detenu. The detenu has been detained by the second respondent by his order in Memo No.288/BCDFGISSSV/2020 dated 13.08.2020, 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 several grounds have been raised, learned counsel for the petitioner mainly focused his arguments on the ground that the the ground case remand order has not been enclosed, 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 remand order of the ground case was not 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.288/BCDFGISSSV/2020 dated 13.08.2020, passed by the second respondent is set aside. The detenu, namely, Om Prakash, son of Srinivasan, aged about 26 years, is directed to be released forthwith unless his detention is required in connection with any other case.

WEB COPY

Sd/-

Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

sri

To

1. The Secretary,
State of Tamil Nadu.
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 007.
- 3.The Superintendent of Police
Central Prison, Puzhal,
Chennai - 600 066.
- 4.The Inspector of Police
V-1, Villivakkam Police Station,
Chennai - 600 118.
- 5.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 600 009.
- 6.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1756 of 2020

GMI (CO)
GMY (01/07/2021)



WEB COPY