

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P.No.1896 of 2020

I.Durga,
W/o.Imran

.... Petitioner /
Wife of the detenu

versus

1.The State of Tamil Nadu,
Rep. by the Secretary to the Government,
Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.

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

3.The Inspector of Police,
P-3, Vyasarpadi Police Station,
Vyasarpadi, Chennai - 600 039.

4.The Superintendent of Prison,
Central Prison-II, Puzhal,
Chennai - 600 066.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records pertaining to Memo No.348/BCDFGISSSV/2020 dated 05.09.2020 on the file of the second respondent herein and set aside the same and direct the respondents herein to produce the petitioner's husband M.Imran, son of Mujeeb, aged 23 years, now confined in the Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.C.K.M.Appaji

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 wife of M.Imran, son of Mujeeb, aged about 23 years, who is the detenu. The detenu has been detained by the second respondent by his order in Memo No.348/BCDFGISSSV/2020 dated 05.09.2020, 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 we have also perused the records carefully. The learned Additional Public Prosecutor has filed a counter and strongly opposed this Petition.

3. Though several grounds have been raised, learned counsel for the petitioner mainly focused his arguments on the ground that the remand extension order pertaining to the ground case has not been enclosed and not supplied 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 ground case remand extension order has 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.348/BCDFGISSSV/2020 dated 05.09.2020, passed by the second respondent is set aside. The detenu, viz. M.Imran, son of Mujeeb, aged about 23 years, is directed to be released forthwith unless his detention is required in connection with any other case.

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Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

sri

To

- 1.The State of Tamil Nadu,
Rep. by the Secretary to the Government,
Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Police,
Greater Chennai City,
Vepery, Chennai - 600 007.
- 3.The Inspector of Police,
P-3, Vyasarpadi Police Station,
Vyasarpadi, Chennai - 600 039.
- 4.The Superintendent of Prison,
Central Prison-II, Puzhal,
Chennai - 600 066.
- 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.1896 of 2020

GPL (CO)
GMY (28/04/2021)



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