

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2021

CORAM

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

H.C.P.No.2116 of 2020

Vasuki,
W/o.Shyam

...Petitioner/
Mother of the detenu

versus

- 1.State of Tamilnadu,
Rep. by The Secretary,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Police,
The Greater Chennai City,
Vepery, Chennai - 600 007.
- 3.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai - 600 066.
- 4.The Inspector of Police,
K-1, Sembium Police Station,
Chennai.

...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.382/BCDFGISSSV/2020, dated 19.09.2020 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 son Asai Thambi, son of Shyam, aged about 32 years, the detenu, now confined in Central Prison, Puzhal, Chennai before this Court and set the petitioner's son Asai Thambi, son of Shyam, aged about 32 years, the detenu herein at liberty.

For Petitioner : Mr.S.Prem Kumar

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 mother of Asai Thambi, son of Shyam, aged about 32 years, who is the detenu. The detenu has been detained by the second respondent by his order in Memo No.382/BCDFGISSSV/2020 dated 19.09.2020, 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 arrest order pertaining to the ground case has not been properly translated, 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. On consideration of the submissions made on either side and upon perusal of the documents available on record especially Page Nos.77 and 78 of the booklet, it is clear that ground case arrest order has not been properly 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 Memo No.382/BCDFGISSSV/2020 dated 19.09.2020, passed by the second respondent is set aside. The detenu, viz. Asai Thambi, son of Shyam, aged about 32 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar

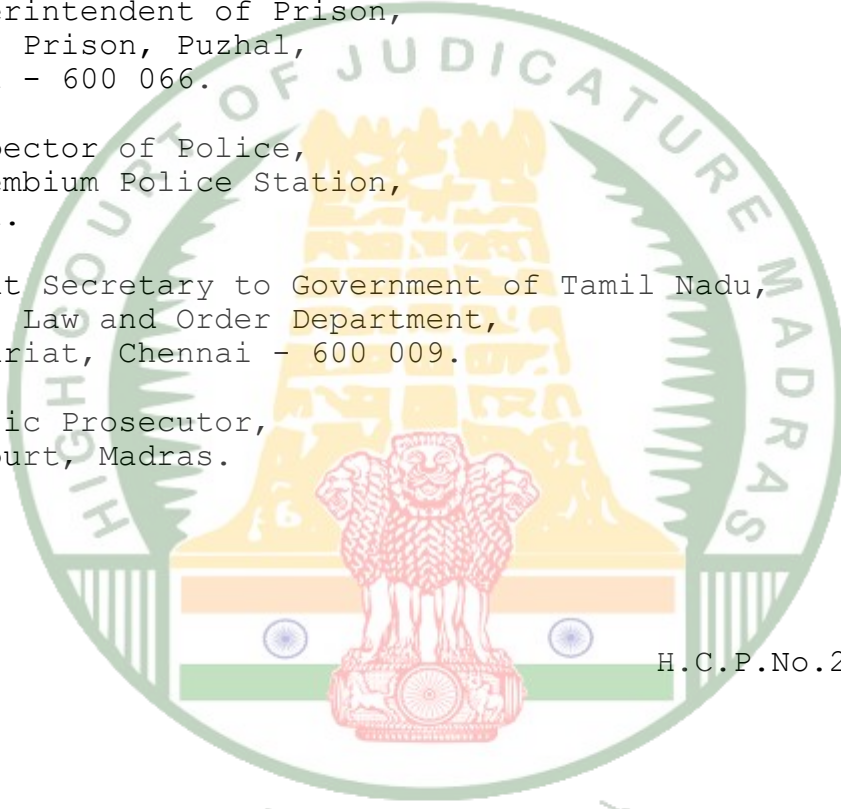
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Sub Assistant Registrar

sri

To

- 1.The Secretary,
State of Tamilnadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Police,
The Greater Chennai City,
Vepery, Chennai - 600 007.
- 3.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai - 600 066.
- 4.The Inspector of Police,
K-1, Sembium Police Station,
Chennai.
- 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.2116 of 2020

KV(CO)
RN(03/05/2021)

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