

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2021

Coram

THE HONOURABLE MR. JUSTICE M.DURAI SWAMY
AND
THE HON'BLE MRS.JUSTICE R.HEMALATHA

H.C.P.No.2141 of 2020

Devi

... Petitioner

Vs.

1.State of Tamil Nadu represented by
The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai, Chennai.

3.The Superintendent of Prison,
Central Prison, Puzhal, Chennai.

4.The Inspector of Police,
T-3, Korattur Police Station,
Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records pertaining to the order of detention passed by the 2nd respondent in No.432/BCDFGISSSV/2020 dated 22.10.2020 against the petitioner Devi's son Mahesh Kumar @ White, Male 24/2020 son of Sivakumar now confined in Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.T.Muruganantham

For Respondents: Mr.R.Muniyapparaj,
Government Advocate (Criminal Side)

ORDER

(Order of the Court made by M.DURAISWAMY, J.)

The petitioner is the mother of the detenu, Mahesh Kumar @ White, son of Sivakumar, aged about 24 years, who is detained in Central Prison, Puzhal, Chennai under Act 14 of 1982 (Tamil Nadu Act). The detenu has been classified as a "Goonda" by the 2nd respondent in his order of detention vide No.432/BCDFGISSSV/2020 dated 22.10.2020. The said order is under challenge in this Habeas Corpus Petition.

2.We have heard Mr.T.Muruganantham, learned counsel appearing for the petitioner and Mr.R.Muniyapparaj, learned Government Advocate (Criminal Side) 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 remand extension order pertaining to the ground case placed before the Detaining Authority has 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.The learned Government Advocate (Criminal Side) strongly opposed the Habeas Corpus Petition by filing his counter.

5.A perusal of the booklet would go to show that the remand extension order pertaining to the ground case placed before the Detaining Authority 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.

6.In the result, the Habeas Corpus Petition is allowed and the order of detention in No.432/BCDFGISSSV/2020 dated 22.10.2020, passed by the second respondent is set aside. The

detenu, viz., Mahesh Kumar @ White, son of Sivakumar, aged about 24 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Police,
Greater Chennai, Chennai.
- 3.The Superintendent of Prison,
Central Prison, Puzhal, Chennai.
- 4.The Inspector of Police,
T-3, Korattur Police Station,
Chennai.
- 5.The Joint Secretary to Government,
Public(Law & Order) Department,
Fort Saint George, Chennai - 9.
- 6.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2141 of 2020

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