

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2021

Coram

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

H.C.P.No.2352 of 2020

Loganayagi ... Petitioner /Mother of Detenue
Vs.

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

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

3.The Inspector of Police,
M-1, Madhavaram Police Station,
Madhavaram, Chennai.

4.The Superintendent of Prison,
Central Prison-II, Puzhal,
Chennai - 66.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records relating to the detention order in Memo No.448/BCDFGISSSV/2020 dated 28.10.2020 passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's son Sarathy @ Parthasarathy, aged about 24 years, son of Ravi, detenue, now confined in Central Prison, Puzhal, Chennai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.M.Baskar

For Respondents : Mr.R.Muniyapparaj,
: Govt.Advocate
(Crl.Side)

ORDER

[Order of the Court was made by P.N.PRAKASH, J.]

The petitioner is the mother of Sarathy @ Parthasarathy, aged about 24 years, son of Ravi, who is the detenu. The detenu has been detained by the second respondent by his order in Memo No.448/BCDFGISSSV/2020 dated 28.10.2020, 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 Government Advocate (Crl.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. 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.

In the result, the Habeas Corpus Petition is allowed and the order of detention in Memo No.448/BCDFGISSSV/2020 dated 28.10.2020, passed by the second respondent is set aside. The detenu, viz., Sarathy @ Parthasarathy, aged about 24 years, son of Ravi, 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 the Government Home,
Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.

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

3.The Inspector of Police,
M-1, Madhavaram Police Station,
Madhavaram, Chennai.

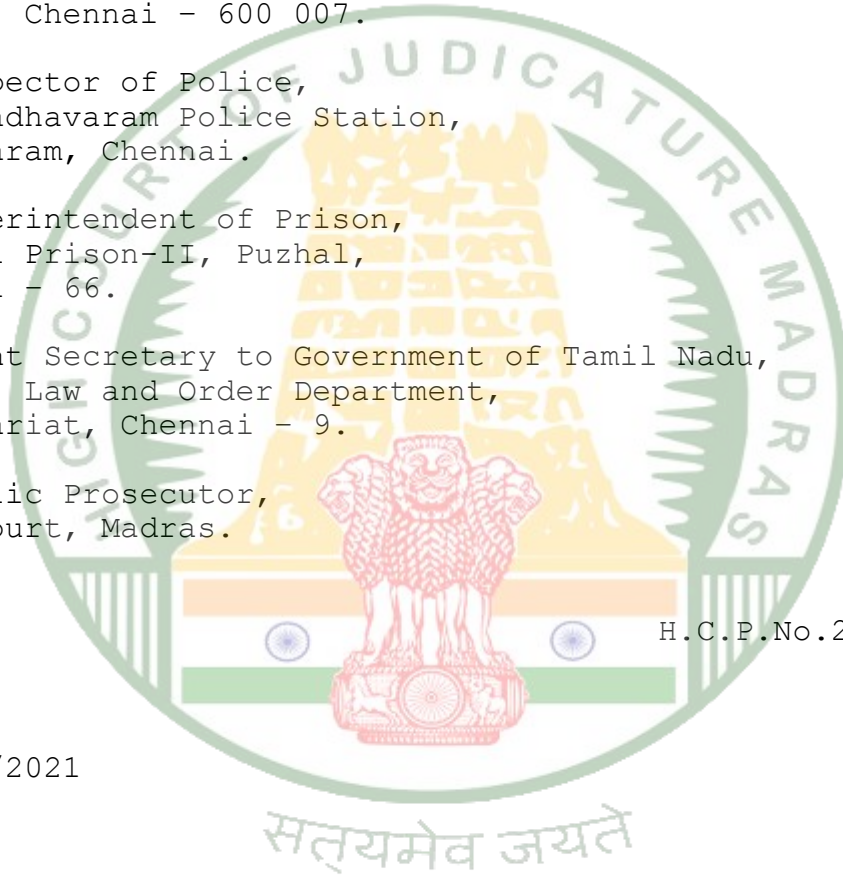
4.The Superintendent of Prison,
Central Prison-II, Puzhal,
Chennai - 66.

5.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.

6.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2352 of 2020

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