

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 10.06.2021

CORAM:

THE HON'BLE MR. JUSTICE M.DURAIWAMY
AND
THE HON'BLE MRS.JUSTICE R.HEMALATHA

H.C.P. No. 2391 of 2020

Mrs. Tamilarasi ... Petitioner

v.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 9.

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

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

4.The Inspector of Police (Law & Order),
H-1, Washermenpet Police Station,
Chennai .

... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records in connection with the order of Detention passed by the second respondent dated 19.11.2020 in BCDFGISSSV No.468 of 2020 against the petitioner husband Mr.Mathi @ Mathiyazhagan, Male, aged about 34 years, son of Senguttuvan, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before the Court and set him at liberty.

For Petitioner : Mr. Illiyas

For Respondents : Mr.R. Muniapparaj
Government Advocate

ORDER

[Order of the Court was made by M. DURAISWAMY, J.]

The petitioner is the wife of Mr.Mathi @ Mathiyazhagan, son of Senguttuvan, aged about 34 years, who is the detenu. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.468 of 2020 dated 19.11.2020 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 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 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 BCDFGISSSV No.468 of 2020 dated 19.11.2020, passed by the second respondent is set aside. The

detenu, viz., Mr.Mathi @ Mathiyazhagan, son of Senguttuvan, aged about 34years, 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

Rj
To

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

WEB COPY

H.C.P.No.2391 of 2020

vsn II[co]
srg 15/06/2021