IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2021

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Ms. Justice R.N.MANJULA

H.C.P. No.2428 of 2020

Priya ... Petitioner

-vs-

1.The Secretary to the Government,
Government of Tamil Nadu,
(Home), Prohibition Excise Department,
Fort St. George, Chennai 600 009.

2.The Commissioner of Police,
Office of the Commissioner of Police
Chennai.

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

4.The Inspector of Police,
J-11, Kannagai Nagar 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 entire records connected with the order of the 2nd respondent herein concerned in BCDFGISSSV No.430/2020 dated 22.10.2020 and quash the order of detention passed therein by the 2nd respondent herein against the detenu and directing the respondents herein to produce the body and person of the detenu by name Thiru.Sivakumar @ Mulla, Son of C.C.Selvam aged about 27 years, now detained at Central Prison, Puzhal, Chennai before this Hon'ble Court and set him at liberty forthwith.

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For Petitioner : Mr.S.Palanivel
For Respondents : Mr.R.Muniyapparaj
Government Advocate (Crl. Side)

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O R D E R

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

The petitioner is the wife of the detenu - Sivakumar @ Mulla, Son of C.C.Selvam, aged about 27 years. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.430/2020 dated 22.10.2020, 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 (Criminal Side) appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3.Though learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the detaining authority, while detaining the detenu, has not furnished the legible copies of the documents relied on by him. This deprived the detenu from making effective representation. Therefore, on this sole ground, the detention order is liable to be quashed.

4.On consideration of the submissions made on either side and upon perusal of the documents available on record, especially the arrest intimation pertaining to the similar case at Page No.209 of the booklet, it is clear that the detaining authority, by providing illegible copies of the documents, has taken away the rights of detenu to effectively defend himself against his detention. 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 BCDFGISSSV No.430/2020 dated 22.10.2020, passed by the second respondent is set aside. The detenu, namely, Sivakumar @ Mulla, Son of C.C.Selvam, aged about 27 years, is directed to be released forthwith unless his detention is required in connection with any other case.

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s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mmi/rna

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To

1.The Secretary to the Government,
  Government of Tamil Nadu,
  (Home), Prohibition Excise Department,
  Fort St. George, Chennai 600 009.

2.The Joint Secretary to Government
  Public (law and order)
  Fort. St. George
  Chennai 9.

3.The Commissioner of Police,
  Office of the Commissioner of Police
  Chennai.

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

5.The Inspector of Police,
  J-11, Kannagai Nagar Police Station,
  Chennai.

6.The Public Prosecutor,
  High Court, Madras.

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JPL(CO)
SP(14/06/2021)

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