

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.07.2021

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE Mr.JUSTICE C.SARAVANAN

H.C.P.No.2582 of 2020

Desam

.. Petitioner

Vs.

1.State of Tamil Nadu rep. by
The Secretary
Home, Prohibition and Excise Department
Fort St. George, Chennai

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

3.The Superintendent of Prison
Central Prison, Puzhal, Chennai-66

4.The Inspector of Police (L&O)
M-5 Ennore Police Station
Chennai

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to call for the records relating to the detention order in No.484/BCDFGISSSV/2020 dated 27.11.2020 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 husband Ajith, aged about 22 years, S/o.Mathi, now confined in Central Prison, Puzhal, Chennai before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.C.Prabakaran

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

O R D E R

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

The petitioner is the wife of the detenu viz., Ajith, aged about 22 years, S/o.Mathi. The detenu has been detained by the 2nd respondent by his order dated 27.11.2020 in No.484/BCDFGISSSV/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. The learned Government Advocate (Crl. 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 material 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 No.484/BCDFGISSSV/2020, dated 27.11.2020, passed by the 2nd respondent is set aside. The detenu viz., Ajith, aged about 22 years, S/o.Mathi, is directed to be released forthwith, unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar (CS-II)

//True copy//

Sub Assistant Registrar

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To

1.The Secretary
Home, Prohibition and Excise Department
Fort St. George, Chennai

2.The Joint Secretary to Government
Public, Law and Order Department
Secretariat, Chennai-9

3.The Commissioner of Police
Greater Chennai City
Vepery, Chennai

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

5.The Inspector of Police (L&O)
M-5 Ennore Police Station
Chennai

6.The Public Prosecutor
High Court, Madras

+1cc to Mr.C.Prabakaran, Advocate SR.No.32359

H.C.P.No.2582 of 2020

SV(CO)
GMY(12/07/2021)