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H.C.P.No.981 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.01.2023

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

H.C.P.No.981 of 2022

Sharmila Viji. H

.. Petitioner

Vs.

1.State of Tamil Nadu represented by its
Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-9.

2.The Commissioner of Police,
Greater Chennai, Chennai

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

4.The Inspector of Police,
Team 12, Bank Fraud Investigation Wing,
Central Crime Branch, Chennai.

.. Respondents



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Petition filed under Article 226 of the Constitution of India, praying to

issue a WRIT OF HABEAS CORPUS calling for the entire records in detention order passed by the second respondent in detention order No.83/BCDFGISSSV/2022 dated 22.04.2022 and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's husband *viz.* Abraham Selvakumar, aged 55 years, S/o.Arulmani (late), who is confined at Puzhal Central Prison, Chennai District, before this Court and set him at liberty.

For Petitioner : Ms.T.Dharani

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu *viz.*, Abraham Selvakumar, aged 55 years, S/o.Arulmani (late). The detenu has been detained by the 2nd respondent by his order in No.83/BCDFGISSSV/2022 dated 22.04.2022, 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.



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2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

We have also perused the records produced by the Detaining Authority.

3. Though the 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. The learned Additional Public Prosecutor strongly opposed the habeas corpus petition by filing his counter.

5. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially the vehicle registration certificate pertaining to the first adverse case at Page No.199 of the booklet, it is clear that the detaining authority, by providing illegible



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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.

In the result, the Habeas Corpus Petition is allowed and the order of detention in No.83/BCDFGISSSV/2022 dated 22.04.2022, passed by the second respondent is set aside. The detenu *viz.*, Abraham Selvakumar, aged 55 years, S/o.Arulmani (late), is directed to be released forthwith, unless his detention is required in connection with any other case.

J.]

nsd

[P.N.P., J.]

[N.A.V.,

03.01.2023



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To

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

2.The Commissioner of Police,
Greater Chennai, Chennai

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

4.The Inspector of Police,
Team 12, Bank Fraud Investigation Wing,
Central Crime Branch, Chennai.

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

6.The Public Prosecutor,
High Court, Madras.



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P.N.PRAKASH, J.
AND
N.ANAND VENKATESH, J.

nsd

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