

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.08.2015

Coram:

THE HON'BLE DR.JUSTICE S.TAMILVANAN

and

THE HON'BLE MR.JUSTICE C.T.SELVAM

H.C.P.No.1348/2015

Sivaraj

... Petitioner/Father of the Detenu

-vs-

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

2.The Commissioner of Police,
Chennai - 600 007.

....

Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus, directing the respondents to produce the body of detenu Mr.Charles male aged 27 years, son of Sivaraj near Block No.28 Backside of Hut Area, Srinivasapuram, Foreshore Estate, Chennai-28, detained as per the detention order of the second respondent dated 05.02.2015 made in No.100 of 2015 before this Court and set the said Mr.Charles son of Sivaraj at liberty.

For petitioner : Mr.V.Sivalingam

For respondents: Mr.M.Maharaja,
Additional Public Prosecutor

O R D E R

(Order of the Court was made by S.TAMILVANAN,J.)

The petitioner is the father of the detenu herein. The detenu has been branded as a "GOONDA" under the provisions of the Tamil Nadu

Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) and detained under the order of the second respondent passed in Memo No.100/BCDFGISSSV/2015 dated 05.02.2015.

2. Though the learned counsel for the petitioner has raised several other grounds to assail the order of detention, he mainly focused his arguments on the ground that there is variation in translation in the bail application in respect of the similar case referred to by the Detaining Authority in the grounds of detention for arriving at the subjective satisfaction that the detenu would be granted bail, registered in Cr.No.588/2014 u/s.379 IPC, wherein bail was granted by the learned 18th Metropolitan Magistrate, Saidapet, Chennai in C.M.P.No.1611/2014. He would further submitted that variation in translation has deprived the detenu in making effective representation to the authorities concerned and therefore, on this sole ground, the detention order is liable to be quashed.

3. We have heard the learned Additional Public Prosecutor on the above submission made by the learned counsel for the petitioner.

4. A careful scrutiny of the Booklet furnished to us, both the English version and the Tamil Version, would reveal some defects in translation with regard to the bail application in respect of the similar case referred to by the Detaining Authority in the grounds of detention for arriving at the subjective satisfaction that the detenu would be granted bail, registered in Cr.No.588/2014 u/s.379 IPC, wherein bail was granted by the learned 18th Metropolitan Magistrate, Saidapet, Chennai in C.M.P.No.1611/2014. Thus, when there is discrepancy between English and Tamil versions, the opportunity of making effective representation upon knowledge of the factual situation stands denied to the detenu and the same, which amounts to infringement of right ensured under Article 22(5) of the Constitution of India, would vitiate the order of detention.

6. For the aforesaid reason, the impugned detention order passed by the second respondent is quashed and the Habeas Corpus Petition is allowed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

cse

To :

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

2.The Commissioner of Police,
Chennai - 600 007.

3. The Superintendent of Central Prison
Puzhal, Chennai.

4.The Joint Secretary to Government,
Public (Law & Order), Fort St.George,
Chennai - 9.

5.The Public Prosecutor
High Court, Madras.

+1 cc to M/s.Siva Associates, Advocate, sr.40193

vgi(co)
kra(24/08)

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