

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2015

C O R A M

THE HONOURABLE MR.JUSTICE C.T.SELVAM
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Habeas Corpus Petition No.1533 of 2015

Mehta
W/o.Sivakumar

...Petitioner

-vs-

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

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

...Respondents

Writ Petition under Article 226 of the Constitution of India filed praying for issuance of a writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 10.06.2015 in Memo No.449/BCDFGISSSV/2015 against the husband of the petitioner Siva @ Sivakumar, M/A 36, son of Mohanasundaram, who is confined at Central Prison, Puzhal, Chennai and to set aside the same and consequently direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.K.S.Kaviarasu

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

O R D E R

(The order of the Court was made by C.T.SELVAM, J.)

Petitioner is the wife of the detenu Siva @ Sivakumar, son of Mohanasundaram, who has been branded as "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under orders of

second respondent passed in Memo No.449/BCDFGISSSV/2015 dated 10.06.2015. Such order is under challenge herein.

2. The detenu came to adverse notice in the following cases:-

S1.No.	Police Station and Crime No.	Sections of Law
1	E-4 Abiramapuram Police Station, Crime No.458 of 2015	379 IPC
2	E-4 Abiramapuram Police Station, Crime No.540 of 2015	420 IPC
3	E-4 Abiramapuram Police Station, Crime No.1308 of 2015	457 and 380 IPC r/w.511 @ 457 and 380 IPC
4	E-4 Abiramapuram Police Station, Crime No.1310 of 2015	379 IPC
5	E-4 Abiramapuram Police Station, Crime No.1407 of 2015	454 and 380 IPC
6	E-4 Abiramapuram Police Station, Crime No.1547 of 2015	457 and 380 IPC

The ground case has been registered against the detenu in Crime No.1669 of 2015 on the file of E-4 Abiramapuram Police Station for offences u/s.341, 294(b), 336, 427, 392, 397 and 506(ii) IPC.

3. Amidst several grounds raised, learned counsel for petitioner submits that there is a discrepancy between the English and Tamil version of the order of bail in the case cited as similar to that of the detenu towards informing the possibility of the detenu being released on bail. The English translation informs the name of the petitioner in such case to be Anandan, whereas the Tamil version informs the name to be Jamaludeen and the same has adversely affected his right of making an effective representation.

4. We have heard learned Additional Public Prosecutor on the above submissions.

5. When there is a variation between English and Tamil version in respect of the bail order, opportunity of clear understanding and making effective representation in keeping

with Article 22(5) of the Constitution of India, on such understanding is lost and the detenu is deprived thereof. This would vitiate the order of detention. For the aforesaid reasons, this Court would allow the present petition.

6. This Habeas Corpus Petition is allowed. The detention order passed by second respondent against the detenu Siva @ Sivakumar, son of Mohanasundaram, made in Memo No.449/BCDFGISSSV/2015 dated 10.06.2015, is quashed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

vga

To

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The Commissioner of Police,
Chennai Police,
Vepery, Chennai.
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, Chennai.

H.C.P.No.1533 of 2015

KJI (CO)
PSI (28.10.2015)