

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2015

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MR.JUSTICE P.N.PRAKASH

H.C.P.No.2724/2015

Sakunthala ... Petitioner/Mother of the detenu

Vs.

1.State of Tamilnadu
Rep.by its Secretary to Government
Prohibition & Excise Department
Fort St George, Chennai - 9.

2.The District Magistrate & District Collector
Namakkal District, Namakkal. ... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus to produce the body of the detenu namely Yuvaraj, aged about 27 years, now confined at Central Prison, Salem, before this Court, and set him at liberty forthwith by calling for the records pertaining to the detention order dated CMP No.33/Goondas/2015/M1 dated 27.05.2015 passed by the 2nd respondent, quash the same.

For Petitioner : Mr.M.Guruprasad

For respondents : Mr.M.Maharaja
Additional Public Prosecutor

O R D E R

[Order of the Court was made by R.SUDHAKAR, J.]

Challenge is made to the order of detention passed by the 2nd respondent vide Proceedings in CMP.No.33/Goondas/2015/M1 dated 27.05.2015 whereby, the son of the petitioner herein/the detenu was ordered to be detained as a "Goonda" under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders,

Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamilnadu Act 14 of 1982].

2.As per the grounds of detention dated 27.05.2015, passed by the 2nd respondent, the detenu came to adverse notice in the following cases:

i)Adverse Cases:

Sl No.	Name of the Police station and Crime No.	Section of law
1	Komarapalayam PS Cr.No.104/2015	394 @ 395 r/w 397 IPC

(ii) Ground Case:

Sl No.	Name of the Police station and Crime No.	Section of law
1	Komarapalayam PS Cr.No.106/2015	395 r/w 397 IPC

3.Though many grounds have been raised in the petition, Mr.M.Guruprasad, the learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

4.Learned counsel appearing for the petitioner submitted that the Detaining Authority has relied upon a similar case registered by Valavandhinadu Police Station in Cr.No.16/2014 wherein bail was granted to the accused by the learned Principal District and Sessions Judge, Namakkal in Crl.MP.No.777/2014 on 28.05.2014. But the vernacular version [the only language which the detenu understands], viz., the Tamil version, of the said bail order has not been furnished to the detenu though the English version is furnished in page No.77 of the Booklet. This non-furnishing of the important aspect in the vernacular version has deprived of the detenu from making an effective representation. This has not been duly verified by the Detaining Authority before passing the order of detention. Therefore, it is submitted that this is indicative of total non-application of mind on the part of the detaining authority and the same vitiates the detention order and is unsustainable in law.

5.Per contra, the learned Additional Public Prosecutor would submit that the order of detention has been passed on cogent and sufficient materials and the same cannot be interfered with at the instance of the petitioner. Therefore, he submits that the Habeas Corpus Petition does not merit any consideration and the

same is liable to be dismissed.

6.We have heard the learned counsel for both sides with regard to the facts.

7.As evidenced from page 77 of the Booklet furnished to the detenu, the English version of the Bail order relating to the similar case in Cr.No.16/2014 registered by the Valavandhinadu Police Station, has been furnished and the vernacular version of the same has not been furnished to the detenu. The non-furnishing of the vital document in the vernacular version, viz., in the Tamil version, which language the detenu could understand, has deprived the detenu from making an effective representation. Whatever documents referred to and relied upon by the Detaining Authority has to be translated and given in Tamil version, as the detenu knows only Tamil. Therefore, the above discrepancy vitiates the detention order and the same is liable to be set aside.

8.In the light of the above facts, we have no hesitation in quashing the order of detention on the above mentioned grounds.

9. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order passed by the 2nd respondent is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar(CS III)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

AP

To

1.The Secretary to Government
State of Tamil Nadu
Prohibition & Excise Department
Fort St George, Chennai - 9.

2.The District Magistrate & District Collector
Namakkal District, Namakkal.

3.The Superintendent, Central Prison,
Salem.

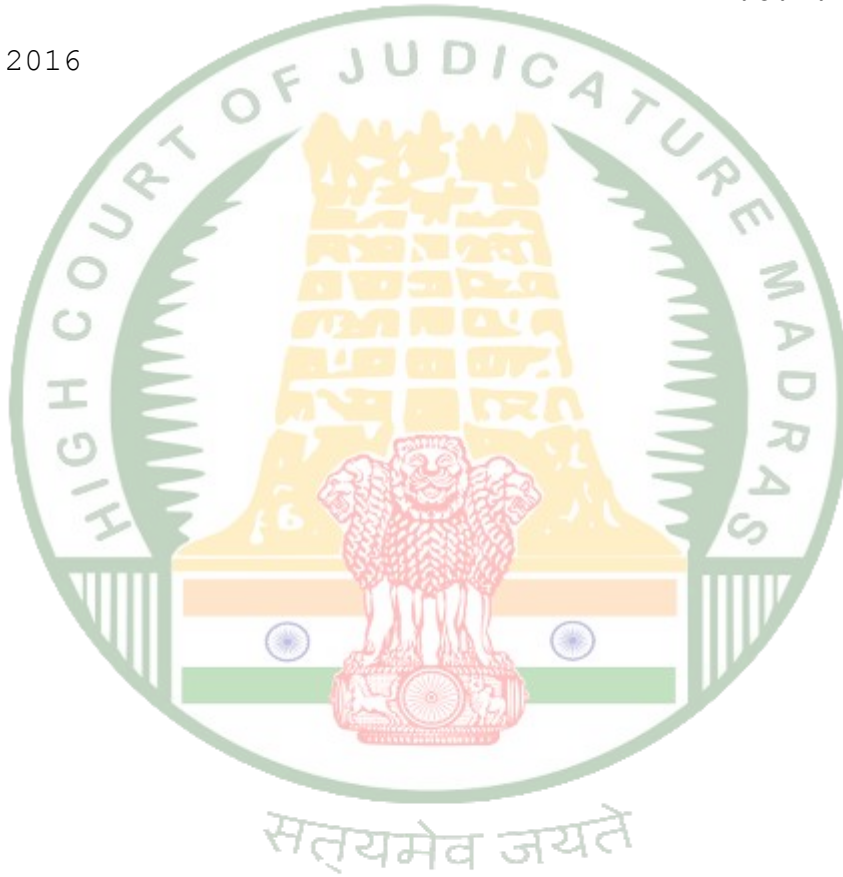
4.The Joint Secretary to Government
Public (Law and Order),
Fort St. George, Chennai 9.

5.The Public Prosecutor, High Court, Madras.

+1 cc to Mr.M.Guruprasad, Advocate, sr.67606

H.C.P.No.2724/2015

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