



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2015

CORAM:

THE HONOURABLE DR.JUSTICE S.TAMILVANAN
AND
THE HONOURABLE MR.JUSTICE C.T.SELVAM

H.C.P.No.29 of 2015

S.Premkumar

... Petitioner

Vs

1. The Secretary to Government,
Home, Prohibition and Excise Department
Fort St.George, Chennai-600 009.

2. The Commissioner of Police,
O/o The Commissioner of Police,
Greater Chennai, Vepery, Chennai 600 007.

... Respondents

Prayer:- This Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus calling for the records in connection with the order of detention passed by the second respondent dated 29.11.2014 in BDFGISSV No.2000/2014 against the detenu herein, now confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu Soorya @ Robo Soorya, son of Sundarapandian, aged about 22 years, before this Court and set him at liberty.

For Petitioner : Mr.A.Nirmal Kumar

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

ORDER

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

Challenge is made to the order of detention passed by the second respondent vide proceedings in No.2000/2014 dated 29.11.2014, whereby the detenu/nephew of the petitioner herein, by name, Soorya @ Robo Soorya, S/o Sundarapandian, aged 22 years, was ordered to be detained 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) branding him as a "GOONDA".

2. Though many grounds have been raised in the petition, Mr. A. Nirmal Kumar, 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.

3. Learned counsel appearing for the petitioner submitted that the Tamil translated version of page No. 128 of the booklet, which is the Remand Order, has not been furnished to the detenu. The non-supply of Tamil translated version of page No. 128 of the booklet would deprive the detenu of making effective representation to the authorities against the order of detention. Thus, the detention order is vitiated on this ground and the same is liable to be quashed.

4. 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.

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

6. A perusal of the booklet supplied to the detenu would show that the Remand Order in page No. 128 of the booklet is only in English version and the Tamil translated version of page No. 128 is not available. This has resulted in the detenu being deprived of making an effective representation. Therefore, the detention order is vitiated and liable to be quashed on this ground alone.

7. It is a trite law that personal liberty protected under Article 21 is so sacrosanct and so high in the scale of Constitutional values that it is the obligation of the detaining authority to show that the impugned detention meticulously accords with the procedure established by law. Preventive detention is preventive and not punitive. When ordinary law of the land is sufficient to deal with, taking recourse to the preventive detention law is illegal.

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

9. In the result, this Habeas Corpus Petition is allowed. The impugned detention order is set aside. The detenu is directed



to be released forthwith, unless his presence is required in connection with any other case.

WEB COPY

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

msk

To

1. The Secretary to Government,
Home, Prohibition and Excise Department
Fort St.George, Chennai-600 009.
2. The Commissioner of Police,
O/o The Commissioner of Police,
Greater Chennai, Vepery, Chennai 600 007.
3. The Superintendent of Prison,
Central Prison,Puzhal, Chennai.
(In Duplicate for Communication to Detenue)
4. The Public Prosecutor,
High Court, Chennai.
5. The Joint Secretary to Government,
Public (Law & Order),
Fort St. George, Chennai - 9.

H.C.P.No.29 of 2015

KJI(CO)
CA(30/06/2015)