

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2016

Coram:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE DR.JUSTICE P.DEVADASS

H.C.P.No.2238 of 2015

Gurunathan

.. Petitioner

vs.

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

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

.. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a writ of Habeas Corpus to call for the records of the 2nd respondent vide his Order Memo No.BCDFGISSSV No.830/2015 dated 29.08.2015 and to produce the body of the detenu viz. Aaru @ Arumugam, aged about 27 years, son of Gurunathan, who is presently detained in the Central Prison, Chennai, before this Court and set him at liberty.

For petitioner : Mr.V.Devendhiran

For Respondents : Mr.A.N.Thambi Durai,
1 and 2 Addl. Public Prosecutor (Crl.side)

ORDER

The petitioner is the father of one Aru @ Arumugam, aged about 27 years. He has been detained by the 2nd respondent, namely, the Commissioner of Police, Veppery, Chennai-7, under the Tamil Nadu Act 14 of 1982 as a 'Goonda' vide Detention Order No.BCDGISSSV.No.830 of 2015 dated 29.08.2015. Challenging the said detention order, the petitioner has come up before this Court with this Habeas Corpus Petition.

2. We have heard the learned Counsel for the petitioner, the learned Additional Public Prosecutor (Crl. Side) appearing for the respondents and we have also perused the records carefully.

3. Though several grounds have been raised in this Habeas Corpus Petition, the learned Counsel for the petitioner would mainly focus his argument on the ground that though in paragraph 4 of the detention order, reference has been made about the order of bail granted in two cases which are similar in nature, the applications seeking bail by the co-accused and the Tamil translation of the bail orders have not been furnished. Thus, according to the petitioner, the detenu has been seriously prejudiced in making his effective representation.

4. I find force in the said argument. Providing sufficient opportunity to the detenu to make effective representation itself is part of the fundamental right. In this case, since the Tamil copies of the bail orders and the bail applications were not furnished to the detenu, he has been deprived of his right to make effective representation. In such view of the matter, we are of the view that the detention order of the 2nd respondent is liable to be set aside.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in BCDGISSSV.No.830 of 2015 dated 29.08.2015 passed by the second respondent is set aside. The detenu, namely, Aaru @ Arumugam, son of Gurunathan is directed to be released forthwith unless his presence is required in connection with any other case.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To:

- 1.The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
- 2.The Commissioner of Police,
Veppery, Chennai-600 007.
3. The Public Prosecutor,
High Court, Madras
- 4.The Superintendent Central Prison,
Puzhal, Chennai

5.The Joint Secretary to Government
Public Law and order fort St.George
Chennai-9

H.C.P.No.2238 of 2015

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