

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE S.NAGAMUTHU

H.C.P.No.2915/2015

Anjalai

.. Petitioner

Vs

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

2.The Commissioner of Police,
Vepery, Chennai.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to call for the entire records leading to the detention of the petitioner's grandson, namely, Arunkumar @ Norasa, Male, aged about 24 years, S/o.Veeran, presently detained in Central Prison II, Puzhal, Chennai, under Act 14 of 1982, as an 'Goonda' vide the detention order dated 28.07.2015, on the file of the 2nd respondent, made in Memo No.617/BCDFGISSSV/2015, and quash the same and consequently, to direct the respondents to produce the body and the person of the detenu, before this Court and thereafter, to set him at liberty from the Central Prison, Puzhal, Chennai.

For Petitioner : Mr.S.Elan Kumaran

For Respondents : Mr.A.N.Thambidurai,
Additional Public Prosecutor

ORDER

[Order of the Court was made by M.JAICHANDREN,J]

This Habeas Corpus Petition has been filed, by the grandmother of the detenu, praying that this Court may be

pleased to issue a Writ of Habeas Corpus, to call for the records, in Memo No.617/BCDFGISSSV/2015, dated 28.07.2015, passed by the 2nd Respondent, detaining the detenu, namely, Arunkumar @ Norasa, S/o.Veeran, Male, aged 24 years, under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982), branding him as a "Goonda", in the Central Prison, Puzhal, Chennai, and to quash the same and to direct the respondents to produce the body of the detenu and to set him at liberty, forthwith.

2. We have heard, Mr.S.Elan Kumaran, the learned counsel appearing on behalf of the petitioner; Mr.A.N.Thambidurai, the learned Additional Public Prosecutor appearing on behalf of the State; and we have also perused the records, carefully.

3. Though, a number of grounds had been raised by the petitioner, while challenging the impugned order of detention, dated 28.07.2015, the learned counsel, appearing on behalf of the petitioner, had submitted that, page Nos.160 and 161 of the booklet supplied to the detenu, relating to the First Information Report, in respect of the similar case in D6 Anna Square Police Station Crime No.598 of 2015, are illegible, and could not be read at all. This illegible copies would deprive the detenu of making effective representation to the authorities concerned against the order of detention. Thus, the detention order is vitiated on this ground and the same is liable to be quashed.

4. The said submission made by the learned counsel appearing on behalf of the petitioner, had not been refuted by the learned Additional Public Prosecutor.

5. It is noted that the copies of documents referred to and relied upon by the detaining authority, in particular, page Nos.160 and 161 of the booklet supplied to the detenu, relating to the First Information Report, in respect of the similar case in D6 Anna Square Police Station Crime No.598 of 2015, are illegible, and are totally unreadable. This has resulted in the detenu being deprived of making an effective representation. In such circumstances, we find that there is non-application of mind on the part of the detaining authority, in passing the detention order. Therefore, we are inclined to set aside the impugned detention order.

6. Accordingly, the Habeas Corpus Petition is allowed

and the impugned detention order, dated 28.07.2015, passed by the second 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-II)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government, State of Tamil Nadu,
Prohibition and Excise Department (Home),
Secretariat, Chennai-600 009
- 2.The Commissioner of Police,Vepery, Chennai.
- 3.The Superintendent
Central Prison II, Puzhal, Chennai.
- 4.The Joint Secretary to Government
Public (Law & Order),
Fort Saint George,
Chennai 9.
- 5.The Additional Public Prosecutor,
High Court, Madras.

H.C.P.No.2915/2015

pvs co
kra 03.05.2016

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