

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2016

CORAM

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

H.C.P.No.2976/2015

Sathish .. Petitioner
Vs

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

2.The Commissioner of Police,
Chennai City. ... 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 in connection with the order of detention passed by the second respondent dated 28.10.2015, in Memo No.1131/BCDFGISSSV/2015, against the petitioner's son Nagaraj, aged 22 years, S/o.Mani, who is confined at Central Prison, Puzhal II, Chennai, and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

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 friend of the detenu, namely, Nagaraj, son of Mani, aged about 22 years, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in No.1131/2015, dated 28.10.2015, passed by the 2nd Respondent, detaining the detenu 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-66, and to quash the same and to direct the Respondents to produce the body of the detenu and set him at liberty, forthwith.

2. We have heard the learned counsel appearing on behalf of the petitioner and the learned Additional Public Prosecutor appearing on behalf of the State and we have also perused the records, carefully.

3. Though several grounds have been raised in this Habeas Corpus Petition, Mr.S.Senthilvel, the learned counsel appearing on behalf of the petitioner, has assailed the impugned detention order only on the ground of supply of illegible copy of the confession statement, in a similar case, registered at T-8, Muthapudupet Police Station Crime No.805 of 2014, referred to in the grounds of detention, for arriving at the subjective satisfaction that there is likelihood of the detenu coming out on bail, which has affected the constitutional right of making an effective and purposeful representation to the authorities concerned, thereby vitiating the detention.

4. Per contra, Mr.A.N.Thambidurai, the learned Additional Public Prosecutor, appearing on behalf of the respondents, would submit that the impugned detention order has been passed on cogent and sufficient materials and there is no illegality or infirmity in the impugned order of detention. However, he had submitted that the copy of the confession statement, in a similar case, registered at T-8, Muthapudupet Police Station Crime No.805 of 2014, furnished to the detenu, is illegible.

5. We have given our careful and anxious consideration to the rival submissions put forth by the learned counsel on either side and thoroughly scanned through the impugned detention order and the entire materials available on record.

6. It is seen from paragraph 4 of the Grounds of Detention that in a similar case, the accused was released on bail, in CrI.O.P.No.1527 of 2015, by this Court, in Cr.No.805 of 2014, for offences under Sections 341, 294(b), 336, 427, 392, 397 and 506(ii) IPC. On a perusal of the Paper Book furnished by the Prosecution, it is seen that the confession statement given by the accused, in the said case, registered at T-8, Muthapudupet Police Station Crime No.805 of 2014, furnished to the detenu, is illegible and could not be read at all. The said material filed in the similar case was a document relied upon by

the Detaining Authority to come to a subjective satisfaction that the detenu was likely to be released on bail. Therefore, supply of such illegible copy of the confession statement, in a similar case, to the detenu, would vitiate the impugned detention order.

7. As already analysed by us, in the facts and circumstances of the present case, the supply of illegible copy of the confession statement, in the similar case, to the detenu, has the effect of vitiating the impugned detention order. Further, due to the defect in such a vital document, the detenu has lost his valuable right to make an effective representation to the authorities concerned. Therefore, the impugned order of detention is vitiated and the same is liable to be quashed.

8. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 28.10.2015, 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-VI)

//True Copy//

Sub Assistant Registrar

msk

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Secretariat, Chennai-600 009
2. The Commissioner of Police,
Chennai City.
3. The Superintendent,
Central Prison, Puzhal, Chennai.
(In duplicate for communication to detenu)
4. The Joint Secretary to Government
Public (Law & Order),
Fort St. George, Chennai.
5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.2976/2015

sai co,
kra 23.05.2016