

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.3033/2015

E.Ramesh .. Petitioner

Vs

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

2.The District Magistrate and
District Collector
Tiruvallur District
Tiruvallur.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to call for the records of the detention order in B.C.D.F.G.I.S.S.S.V. No.40/2015, dated 04.11.2015, on the file of the second respondent and quash the same and to direct the respondents to produce the petitioner's son, namely, Manikandan, S/o.Ramesh, now confined at Central Prison, Puzhal, Chennai, before this Court and to set him at liberty.

For Petitioner : Mr.M.Jai Ganesh

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 father of the detenu, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in B.C.D.F.G.I.S.S.S.V. No.40/2015, dated 04.11.2015, passed by the 2nd Respondent, detaining the detenu, namely, Manikandan, Male, aged 23 years, S/o.Ramesh, 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-II, Puzhal, Chennai-66, 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.M.Jai Ganesh, 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 04.11.2015, the learned counsel, appearing on behalf of the petitioner, had submitted that, the detaining authority had stated in the grounds of detention that the detenu had made a confession with regard to the seizure of Swift Desire Car bearing Regn.No. TN-04-AP-0568; cash of Rs.1200/-; two knives; one pen knife; and four wooden logs, by the Inspector of Police. He had further submitted that, though, the detaining authority has relied on the said confession statement to pass the detention order, a copy of the said confession statement had not been furnished to the detenu in the book-let supplied to him, hence, the detenu had been prevented from making an effective representation against the impugned order of detention.

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 from the grounds of detention that the detenu had made a confession with regard to the seizure of Swift Desire Car bearing Regn.No. TN-04-AP-0568; cash of Rs.1200/-; two knives; one pen knife; and four wooden logs, by the Inspector of Police. It is further noted that, though the detaining authority has relied on the said confession statement to pass the detention order, the copy of the said confession statement had not been furnished to the detenu in the book-let supplied to him. The non-furnishing of the copy of the confession statement, would prejudice the detenu, in 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 04.11.2015, 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/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

- 1.The Secretary
State of Tamil Nadu,
Home (Prohibition and Excise Department),
Secretariat,
Chennai-600 009
- 2.The District Magistrate and
District Collector
Tiruvallur District
Tiruvallur.
3. The Superintendent
Central Prison, Puzhal,
Chennai
4. The Joint Secretary to Government
Public (Law and order) Fort Saint George,
Chennai
- 5.The Additional Public Prosecutor,
High Court, Madras.

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