

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2016

CORAM

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

H.C.P.No.1015 of 2016

Vijayal

.. Petitioner

Vs

1.The Principal Secretary to
the Government, Home,
Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The District Magistrate and
District Collector,
Namakkal District.

.. 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 in connection with the order of detention passed by the second respondent, dated 9.4.2016 in C.M.P.No.10/Goonda/2016/M1, against the petitioner's brother Anbalagan, son of Marappan, aged about 30 years, who is confined at the Central Prison, Salem, and set aside the same and to direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.V.Parthiban
for Mr.E.K.Kumaresan

For Respondents : Mr.V.M.R.Rajentran,
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.BASKARAN, J.]

This Habeas Corpus Petition has been filed, by the sister of the detenu, namely, Anbalagan, son of Marappan, aged about 30 years, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in C.M.P.No.10/Goonda/2016/M1, dated 9.4.2016, passed by the second 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 of 1982), branding him as a "Goonda", in the Central Prison, Salem 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. It is represented by the learned counsel appearing for the petitioner that in paragraph No.4 of the Detention Order, it has been stated that in a similar case registered at Tiruchengode Rural Police Station Crime No.191 of 2015, bail was granted to the accused, by the Principal District Sessions Judge, Namakkal, in C.M.P.No.535 of 2015, on 9.6.2015. According to the petitioner, the detenu was furnished only the English version of the bail order, dated 9.6.2015, as found in page No.79 of the booklet, but no vernacular version of the bail order was furnished to the detenu, which had prevented the detenu from making an effective representation against the impugned order of detention. Thus, the detention order is vitiated 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 appearing on behalf of the respondents.

5. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned and on perusal of the materials available, it is clearly found that the detaining authority has relied on the similar case, registered in Crime No.191 of 2015, on the file of the Tiruchengode Rural Police Station, while passing the impugned detention order, wherein bail had been granted to the accused concerned, by the Principal District Sessions Judge, Namakkal, by order, dated 9.6.2015, made in C.M.P.No.535 of 2015. On verification of the records available, it is found that only the English version of the bail order granted in the similar case, has been found available in page No.79 of the booklet furnished to the detenu. The vernacular version of the bail order has not been furnished to the detenu. Thus, the non furnishing of the bail order in the vernacular version has caused prejudice to the detenu and it has prevented him from making an effective representation, before the authorities concerned, against the impugned order of detention. 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 9.4.2016, 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(J)

//True Copy//

Sub Assistant Registrar

vvk

To

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009
 - 2.The District Magistrate and District Collector,
Namakkal District.
 - 3.The Public Prosecutor,
High Court, Madras.
 4. The Superintendent, Central Prison, Salem.
 5. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
- + 1 cc to M/s. E.K. Kumaresan, Advocate Sr.62062

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RSI (CO)
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