

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2016

CORAM

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

H.C.P.No.1142 of 2016

P.Lakshmi

.. Petitioner

Vs

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

2.The Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St. George,
Chennai-9.

.. 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 first respondent, in C.M.P.No.04/Goondas/2016/M1, dated 22.2.2016 and to set aside the same and to direct the first respondent to produce the detenu P.Umapathi, son of Ponnusamy, aged 24 years, now confined in the Central Prison, Salem, before this Court and to set him at liberty.

For Petitioner : Mr.C.D.Johnson

For Respondents: Mr.V.M.R.Rajentran, APP

ORDER

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

This Habeas Corpus Petition has been filed by the mother of the detenu, namely, Umapathi, son of Ponnusamy, aged about 24 years, to issue a Writ of Habeas Corpus, to call for the records, in C.M.P.No.04/Goondas/2016/M1, dated 22.2.2016, passed by the first respondent, detaining the detenu, under Section 3(1) of the Tamil Nadu Prevention of Dangerous

Activities of Bootleggers, 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 to set him at liberty, forthwith.

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

3. The learned counsel appearing for the petitioner contends that in the order of detention, the detaining authority has mentioned about the similar case, registered in Crime No.191/2015, on the file of Tiruchengode Rural Police Station, wherein bail had been granted to the accused concerned, by the Principal District Sessions Judge, Namakkal, in C.M.P.No.535 of 2015. However, in the booklet furnished to the detenu, only the English version of the bail order had been furnished, but the vernacular version of the order copy was not furnished to the detenu. This has 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 submissions 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. On verification of the booklet furnished to the detenu, it is seen that the vernacular version of the bail order stated to be granted in a similar case, in Crime No.191 of 2015, on the file of the Tiruchengode Rural Police Station, in C.M.P.No.535 of 2015, was not found. Thus, the contention of the petitioner that non supply of the vernacular version of relevant papers in the above said case, prevented the detenu from making an effective representation against the order of detention is to be accepted. In such circumstances, we are inclined to set aside the detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 22.02.2016, passed by the first 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 V)

//True Copy//

Sub Assistant Registrar

vvk

To

- 1.The Secretary to Government,
The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
- 2.The District Magistrate and District Collector,
Namakkal District,
Namakkal.
- 3.The Superintendent,
Central Prison,
Salem.
- 4.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
- 5.The Public Prosecutor,
High Court, Madras.

+1cc to M/S.C.D.Johnson, Advocate Sr.67863

H.C.P.No.1142 of 2016

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srg 26/12/2016

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