

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE T.MATHIVANAN

H.C.P.No.1462 of 2016

Vennila

...Petitioner/
Mother of the Detenue

Vs

1.State of Tamil Nadu,
rep by the Secretary,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.

2.The Commissioner of Police,
The Commissioner Office,
Vepery, Chennai-600 007.

...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 relating to the detention order, in Memo No.594/BCDFGISSSV/2016, dated 24.6.2016, passed by the second respondent and to set aside the same and to direct the respondents to produce the petitioner's son Rajesh @ Doctor, son of Raji, aged about 26 years, the detenu, confined in the Central Prison, Puzhal, Chennai, before this Court and to set him at liberty.

For Petitioner : Mr.D.Gopikrishnan

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

ORDER

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

This Habeas Corpus Petition has been filed by the mother of the detenu, namely, Rajesh @ Doctor, aged about 26 years, son of Raji, to issue a Writ of Habeas Corpus, to call

for the records, in No.594/BCDFGISSSV/2016, dated 24.06.2016, passed by the second 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, 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 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 booklet furnished to the detenu, there is variation between the English version and the Vernacular version of the remand order, dated 25.5.2016, in respect of Crime No.528 of 2016, on the file of G-7 Chetpet Police Station, which is the third adverse case. The English version of the remand order, dated 25.5.2016, had been furnished, in page No.141 and the vernacular version had been found in page No.143 of the booklet supplied to the detenu. A perusal of the same would show that there was improper translation, regarding the prima facie ground exists, for the arrest and the remand. Thus, 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. It is noted from the records available that a copy of the remand order, dated 25.5.2016, both English and vernacular versions, relating to the third adverse case, in Crime No.528 of 2016, on the file of G-7 Chetpet Police Station, had been furnished to the detenu, in page Nos.141 and 143 of the booklet supplied to him. A perusal of the same would show that there is improper translation, regarding the prima facie ground exists, for the arrest and the remand. This has, apparently, caused substantial prejudice to the detenu and it has prevented him from making an effective representation and to take further steps. 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 24.6.2016, 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

//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 Commissioner of Police,
The Commissioner Office,
Vepery, Chennai-600 007.
3. The Superintendent,
Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court, Madras.
5. The Joint Secretary to Government,
Public(Law & Order)
Fort St. George,
Chennai-9

NMJ(CO)
RS(20/01/2017)

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