

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.1497 of 2016

Amanullah

.. Petitioner

Vs

1.The 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.607/BCDFGISSSV/2016, dated 29.6.2016, passed by the second respondent and to set aside the same and to direct the respondents to produce the petitioner's son Mohammed Imrankhan, son of Amanullah, aged about 28 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

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ORDER

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

This Habeas Corpus Petition has been filed by the father of the detenu, namely, Mohammed Imrankhan, aged about 28 years, son of Amanullah, to issue a Writ of Habeas Corpus, to call for the records, in No.607/BCDFGISSSV/2016, dated

29.6.2016, 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 on behalf of the petitioner had submitted that there is variation between the English version and the Vernacular version of the remand order, dated 28.4.2016, relating to the first adverse case, in Crime No.384 of 2016, on the file of G-1 Vepery Police Station, which had been furnished to the detenu in the booklet. In the English version, the provisions relating to the legal aid assistance had been mentioned. But, the same is missing in the Vernacular version. 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, in page No.39 of the booklet furnished to the detenu, in the English version of the remand order, dated 28.4.2016, it had been stated as follows:

"Accused 1,2 produced before me at 02.30 P.M after effecting formal arrest on P.T. Warrant, grounds of arrest explained to the accused. Provisions of legal aid explained to the accused....."

However, in the vernacular version found in page No.41, there is no translation regarding the legal aid assistance that was explained to the detenu. 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 29.6.2016, 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/-

Asst.Registrar (CS VI)

/true copy/

Sub Asst. 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 Public Prosecutor,
High Court, Madras.
- 4.The Joint Secretary to Government
Public (Law & Order),
Fort St.George, Chennai-9.
- 5.The Superintendent Central Prison
Puzhal, Chennai.

सत्यमेव जयते

H.C.P.No.1497 of 2016

MP (CO)
GN (23/01/2017)

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