

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2016

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

H.C.P.No.530 of 2016

Suresh Kumar

.. Petitioner

Vs

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

2.The Commissioner of Police,
Chennai Police,
Vepery, Chennai.

.. 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 pertaining to the order of detention passed by the second respondent in No.87/BCDFGISSSV/2016, dated 9.2.2016 and to direct the respondents to produce the petitioner, by name Suresh Kumar, son of Sampath Kumar, aged about 25 years, now confined in the Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.K.Thenrajan

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

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ORDER

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

This Habeas Corpus Petition has been filed by the detenu, namely, Suresh Kumar, son of Sampath Kumar, aged about 25 years, to issue a Writ of Habeas Corpus, to call for the records, in No.87/BCDFGISSSV/2016, dated 09.02.2016, 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 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 there is variation between the English version and the Vernacular version of the remand report, dated 22.12.2015, relating to the ground case, in Crime No.1497 of 2015, on the file of the N-4 Fishing Harbour 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.113 of the booklet furnished to the detenu, in the English version of the remand order, dated 22.12.2015, it has been stated as follows:

"Accused produced at 05.10 PM. Grounds of arrest explained. No complaints against police. Arrest intimated. Legal aid assistance explained....."

However, in the vernacular version found in page No.114, 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 09.02.2016, 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.

[M.J.,J.] [S.B.,J.]
02.11.2016

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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,
Chennai Police,
Vepery, Chennai-7.
- 3.The Public Prosecutor,
High Court, Madras.

M.JAICHANDREN,J.
AND
S.BASKARAN, J.

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