



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.05.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

AND

THE HONOURABLE MR.JUSTICE B.GOKULDAS

H.C.P.(MD)No.263 OF 2016

Ramaraj

... Petitioner

vs.

1.State of Tamil Nadu

rep.by the Secretary to Government

Home, Prohibition and Excise Department

Fort St.George, Chennai-600 009

2.The District Collector and District Magistrate

Kanniyakumari District at Nagercoil

Nagercoil

3.The Superintendent of Prison

Central Prison, Palayamkottai

Tirunelveli

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus to call for the entire records connected with with the detention order passed in P.D.No.06/2016, dated 17.02.2016, on the file of the second respondent herein and quash the same and direct the respondents to produce the person or body of the detenu namely Vipin @ Vipnlal, son of Ramaraj, aged about 25 years, now detained at Central Prison, Palayamkottai before this Court and set him at liberty forthwith.

For Petitioner : Mr.K.Sudalaiyandi

For Respondents : Mr.C.Ramesh

Additional Public Prosecutor

O R D E R

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

The petitioner's son Vipin @ Vipnlal, son of Ramaraj, aged about 25 years, has been detained as "Goonda", under Section 2(f) 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), as per the order of the second respondent, dated 17.02.2016. Challenging the same, he has

<https://hcservices.ecourts.gov.in/hcservices/> H.C.P.(MD)No.263 OF 2016



2. The Detaining Authority, expressing subjective satisfaction that the detenu conformed to the definition of "Goonda" and that his presence at large would be prejudicial to the maintenance of public order and public health and also expressing subjective satisfaction that it was very likely that the detenu would come out on bail in the ground case, passed the impugned detention order. The said order is challenged in the present Habeas Corpus Petition.

3. Though the order of detention is assailed on several grounds, the learned counsel for the petitioner primarily relies on the following contention:-

"The Detaining Authority has stated in para 4 of the grounds of detention that the detenu may be released on bail since in a similar case bail was granted in CrI.M.P.No.8 of 2016. But the document relied by the detaining authority was not supplied to the detenu. Since the relied document was not supplied to the detenu, the right of giving effective representation was affected. Hence the detention order has to be quashed."

4. We have heard the submissions made by the learned Additional Public Prosecutor on behalf of the said submission made by the learned counsel for the petitioner. The submissions, thus, made by the learned Additional Public Prosecutor are also taken into consideration.

5. The learned counsel for the petitioner, after taking us through the entire booklet, points out the fact that the copy of order in CrI.M.P.No.8 of 2016, wherein bail was granted to one Rajasekar, was not furnished to the detenu.

6. So far as the contention of the learned counsel for the petitioner regarding non-furnishing of the order copy is concerned, it amounts to denial of a reasonable opportunity to make an effective challenge to the order of detention. On that score alone, the order of detention is liable to be set aside.

7. In the result, the Habeas Corpus Petition is allowed and this Court sets aside the order of detention dated 17.02.2016, made in P.D.No.06/2016, by the second respondent and directs the release of the detenu by name Vipin @ Vipnlal, son of Ramaraj, aged about 25 years forthwith, if his custody/detention is not authorised in specific cases or by any other order of detention.

Sd/-

Assistant Registrar(CS I)

/True copy/



To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600 009.
- 2.The District Collector and District Magistrate,
Kanniyakumari District at Nagercoil,
Nagercoil.
- 3.The Superintendent of Prison,
Central Prison, Palayamkottai,
Tirunelveli.
- 4.The Joint Secretary to Government
Public (Law & Order)
Fort St. George, Chennai-9.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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H.C.P. (MD) No.263 OF 2016