



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.05.2016

CORAM :

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Habeas Corpus Petition (MD) No.431 of 2016

Latchathipathi

... Petitioner

Vs.

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

2. The District Collector and District
Magistrate, Ariyalur District,
Ariyalur.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus, calling for the entire records of the second respondent in Cr.M.P.No.03 of 2016, dated 06.02.2016 and quash the same and thereby, direct the respondents to produce the petitioner's son, L.Rameshkumar, son of Latchathipathi, (detenu), aged about 23 years, now, detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty forthwith.

For Petitioner : Mr.G.Karuppasamy Pandian
For Respondents : Mr.C.Ramesh,
Additional Public Prosecutor.

ORDER

(Order of the Court was made by **R.MAHADEVAN,J**)

The petitioner is the father of the detenu, namely, Rameshkumar, son of Latchathipathi, aged 23 years, who has been detained under the Tamil Nadu Act 14 of 1982 by the order of the second respondent, in his proceedings in Cr.M.P.No.03/2016, dated 06.02.2016, regarding him as a 'Goonda'. Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.



2. Though this matter stood adjourned to 09.06.2016, it has been listed before this Court as per the Special Criminal Division Bench sitting arrangements during Vacation Holidays and by consent of either side, this matter is taken up for disposal.

3. We have heard the learned Counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

4. Though several grounds have been raised in this petition, the learned Counsel appearing for the petitioner would mainly focus his argument on the ground that the relevant copies of the materials, more particularly, the translated version of the bail petition filed by the detenu in Cr.M.P.No.83 of 2016 on the file of the learned Principal District and Sessions Judge, Ariyalur, have not been furnished to the detenu, which is fatal to the subjective satisfaction arrived at by the Detaining Authority that there was every real possibility for the detenu to come out on bail is not based on any material and thus, the detention order is liable to be set aside. This, according to the learned Counsel appearing for the petitioner is totally baseless and reflecting the total non-application of mind of the Detaining Authority. In support of his contentions, he relied on the judgment of this Court in **S.Sarsu v. The Government of Tamil Nadu and another** [H.C.P.No.3715 of 2014, decided on 25.03.2015].

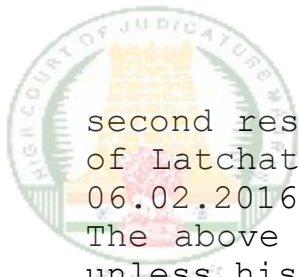
5. Despite time granted, no counter affidavit is forthcoming on the side of the respondents so far. Also, the learned Additional Public Prosecutor is not in a position to dispute the above fact.

6. We have considered the above said submissions and perused the materials available on record.

7. This Court, in **Jarinabegam v. State of Tamil Nadu by Secretary to Government, Prohibition and Excise Department, Chennai and another (2007-1-MLJ-Cr1.18)**, relying on the decision of the Honourable Supreme Court in **M.Ahamed Kutty v. Union of India and another** reported in **1990-2-SCC-1**, held that non-supply of a copy of the bail application to the detenu has the effect of vitiating the order of detention.

8. In the light of the above dictum laid down by the Honourable Supreme Court, we are of the considered view that non-supply of relevant documents sought by the detenu, vitiates the order of detention as the detenu has lost his valuable right to make an effective representation to the authorities concerned and therefore, the detention order is liable to be set aside.

9. In the result, the impugned detention order passed by the



second respondent, detaining the detenu, namely, Rameshkumar, son of Latchathipathi, aged 23 years, made in Cr.M.P.No.03/2016, dated 06.02.2016, is quashed and the Habeas Corpus Petition is allowed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

WEB COPY

Sd/-

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

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

+ 1 CC TO MR.G.KARUPPASAMY PANDIAN, ADVOCATE IN SR NO. 26818

SMS/RSB

TE/PEK/SAR-I : 02/06/2016 : 3P/7C

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