

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.05.2017

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THE HONOURABLE MR.JUSTICE M.V. MURALIDARAN
and
THE HONOURABLE MR.JUSTICE S. BASKARAN

H.C.P.No.267 of 2017

Saravanan

.. Petitioner

Vs.

1. State of Tamil Nadu,
Rep. By it Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.
2. The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus to call for the entire records leading to the detention of the petitioner's brother Ilayaraja, son of Ramalingam, male aged about 35 years, is presently lodged in Central Prison, Puzhal at Chennai and has been detained under Act 14/82 as a "Goonda"vide detention order dated 10.01.2017 on the file of the 2nd respondent herein, made in Memo No.22/BCDFGISSSV/2017, quash the same and consequently direct the respondents herein to produce the body and person of the said detenu before this Court and thereafter set him at liberty from the Central Prison, Puzhal, Chennai.

For Petitioner
For Respondents

सत्यमेव जयते
: Mr.M.Rajavelu
: Mr.V.M.R.Rajentren,
Additional Public Prosecutor

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ORDER

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

The petitioner, who is the brother of the detenu Ilayaraja, Son of Ramalingam, male, aged 35 years, has come forward with this habeas corpus petition challenging the detention order

passed by the 2nd respondent, dated 10.01.2017, against his brother branding him as a "Goonda" under Sub Section(1) of Section 3 of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

2.We have heard the learned counsel counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents and we have also perused the records carefully.

3.Admittedly, the grounds of detention furnished to the detenu which are vital, upon which, reliance has been made by the detaining authority, are in English and the same have not been properly translated into Tamil and furnished to the detenu. This according to the learned counsel for the petitioner caused serious prejudice to the detenu in making effective representation, to the authorities, against the order of detention.

4.We find force in the said argument of the learned counsel for the petitioner. In our considered view, non supply of proper translated copies of the vital documents to the detenu would cause serious prejudice to him. Thus, the detention order is vitiated. On this ground, the impugned detention order is liable to be quashed.

5.It is a trite law that, personal liberty protected under Article 21, is so sacrosanct and so high in the scale of Constitutional values that, it is the obligation of the detaining authority to show that the impugned detention meticulously accords with the procedure established by law. Preventive detention is preventive and not punitive. When ordinary law of the land is sufficient to deal with, taking recourse to the preventive detention law is illegal.

6.In the light of the above facts and law, we have no hesitation in quashing the order of detention on the above mentioned ground.

7. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in B.C.D.F.G.I.S.S.S.V No. 22/2017 dated 10.01.2017 passed by the 2nd 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(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 9.
2. The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai.
3. The Superintendent Central Prison
Puzhal Chennai
4. The Joint Secretary to Government
Public Law and Order Fort St. George
Chennai-9
5. The Public Prosecutor,
High Court, Madras.

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