

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.05.2017

CORAM

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

H.C.P.No.485 of 2017

Lakshmi

.. Petitioner

Vs.

1. State of Tamil Nadu,
Rep. By it Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

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

.. 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 records pertaining to the order of detention under the Tamil Nadu Act 14 of 1982 passed in B.C.D.F.G.I.S.S.V No. 01/2017 dated 04.01.2017 passed by the 2nd respondent and set aside the same and direct the respondents to produce the petitioner's friend by name Dinesh, S/o. Manoharan (late), aged about 24 years, before this Hon'ble Court, now confined in Central Prison-II, Puzhal, Chennai and set him at liberty.

For Petitioner : Mr.K.P. Rajendran

For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

ORDER

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

The petitioner, who is the friend of the detenu Dinesh, Son of Manoharan (late), aged 24 years, has come forward with this habeas corpus petition challenging the detention order passed by the 2nd respondent, dated 04.01.2017, against his friend branding

him as a "Goonda" under 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 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.

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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. 01/2017 dated 04.01.2017 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

//True Copy//

Sub Assistant Registrar

nv

To

1. Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
- 2 The District Magistrate and District Collector,
Thiruvallur District, Thiruvallur.
3. The Superintendent,
Central Prison-II, Puzhal, Chennai.
4. The Joint Secretary to Government,
Public (Law & Order),
Fort St. George, Chennai-9.
5. The Public Prosecutor,
High Court, Chennai.

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GJ(CO)
RS(13/06/2017)

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