

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2017

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE T.MATHIVANAN

H.C.P.No.1554 of 2016

Mohammed Hanifa ... Petitioner

Vs

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

2.The Commissioner of Police,
The Commissioner office,
Vepery, Chennai-600 007.

... 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 relating to the detention order in Memo /BCDFGISSSV No.699/2016, dated 15.7.2016, on the file of the second respondent and to set aside the same and to direct the respondents to produce the petitioner's brother, Mohamed Ismail, aged about 28 years, son of Jaffer Ali, the detenu, confined in the Central Prison, Puzhal, Chennai, before this Court and to set him at liberty.

For Petitioner : Mr.S.Senthilvel
for Mr.M.Kaveri Selvam

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

ORDER

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

This Habeas Corpus Petition has been filed by the brother of the detenu, namely, J.Mohamed Ismail, aged about 28 years, son of Jaffer Ali, to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.699/2016, dated

15.7.2016, 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 "Video Pirator", in the Central Prison, Puzhal, Chennai, and to quash the same and to direct the Respondents to produce the body of the detenu and to 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 on behalf of the petitioner contends that, in the booklet furnished to the detenu, there is improper translation of the bail order, dated 1.10.2015, granted by the learned III Metropolitan Magistrate, George, Town, Chennai, in CrI.M.P.No.1493 of 2015, relating to a similar case registered in Crime No.358 of 2015, on the file of the Central Crime Branch, Team 10, Egmore, Chennai-08. A perusal of page Nos.94 and 95 of the booklet shows that there is improper translation, regarding the sections relating to the offence committed, in the vernacular version of the copy of the bail order. 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 a copy of the bail order, dated 1.10.2015, both English and vernacular versions, relating to Crime No.358 of 2015, on the file of the Central Crime Branch, Team 10, Egmore, Chennai-08, had been furnished to the detenu, in page Nos.94 and 95 of the booklet supplied to him. A perusal of the same would show that there is improper translation, regarding the sections, relating to the offence committed. 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 15.7.2016, 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.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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,
The Commissioner office,
Vepery, Chennai-600 007.
- 3.The Superintendent,
Central Prison,
Puzhal, Chennai.
(In duplicate for Communication to Detenue)
- 4.The Joint Secretary to Government,
Public(Law & Order), सतयमेव जयते
Fort Saint George, Chennai - 9.
- 5.The Public Prosecutor,
High Court, Madras.

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