

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2017

CORAM

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

H.C.P.No.1567 of 2016

Gopi @ Kulla Gopi ... Petitioner
Vs

1.State of Tamil Nadu,
rep by its Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The Commissioner of Police,
Greater Chennai Police,
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 entire records relating to the detention order, passed by the second respondent, in BCDFGISSSV No.563/2016, dated 14.6.2016, and quash the same and to direct the respondents to produce the petitioner Gopi @ Kulla Gopi, son of Athi, aged 29 years, detained in the Central Prison-II, Puzhal, Chennai, before this Court and to set him at liberty, forthwith.

For Petitioner : Mr.C.C.Chellappan

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

ORDER

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

This Habeas Corpus Petition has been filed, by the detenu, namely, Gopi @ Kulla Gopi, aged about 29 years, son of Athi, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.563/2016, dated 14.6.2016, passed by the second respondent,

detaining the detenu under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, 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 "Goonda", 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 and the learned Additional Public Prosecutor appearing on behalf of the State and we have also perused the records, carefully.

3. Though, several grounds had been raised by the petitioner, while challenging the impugned order of detention, dated 14.6.2016, the learned counsel, appearing on behalf of the petitioner, had submitted that, in paragraph No.4 of the grounds of detention, the detaining authority had stated that in a similar case registered in J-2 Adayar Police Station Crime No.62 of 2016, bail had been granted by the Court of Principal Sessions Judge, in Crl.M.P.No.1273 of 2016. It had been further submitted, by the learned counsel appearing on behalf of the petitioner, that a copy of the F.I.R., relating to the similar case, in Crime No.62 of 2016, had been furnished to the detenu, in page No.505 of the booklet. However, the copy of the F.I.R. furnished in page No.505 of the booklet is found to be illegible. Hence, the detenu had been prevented 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 submission 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. A perusal of the booklet supplied to the detenu, would show that the copy of the F.I.R., relating to Crime No.62 of 2016, on the file of J-2 Adyar Police Station, furnished to the detenu, in page No.505 of the booklet, is found illegible. As such, we find that the furnishing of the illegible copy of the document, relating to the similar case, would prejudice the detenu, in making an effective representation against the impugned order of detention, dated 14.6.2016. Therefore, we are inclined to set aside the impugned detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 14.6.2016, 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(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
2. The Commissioner of Police,
Greater Chennai Police,
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),
Fort Saint George, Chennai - 9.
5. The Public Prosecutor,
High Court, Madras.

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