

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2017

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

H.C.P.No.1613 of 2016

Nagapushanam ...Petitioner

Vs

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

2.The Commissioner of Police,
Chennai Police,
Vepery, Chennai.

...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 pertaining to the order of detention passed by the second respondent, in No.706/BCDFGISSSV/2016, dated 15.7.2016 and to set aside the same and to direct the respondents to produce the petitioner's son, by name, Appu @ Anbazhagan, son of Jothinathan, aged about 35 years, confined in the Central Prison, Puzhal, Chennai, before this court and to set him at liberty.

For Petitioner : Mr.K.Thenrajan

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 mother of the detenu, namely, Appu @ Anbazhagan, aged about 35 years, son of Jothinathan, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in No.706/BCDFGISSSV /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, 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.

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 15.7.2016, the learned counsel, appearing on behalf of the petitioner, had submitted that a copy of the confessional statement of the co-accused furnished to the detenu, in the booklet supplied to him, in page nos.48 and 49, 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 a copy of the confessional statement, relating to the co-accused, furnished to the detenu, in page Nos.48 and 49 of the booklet, is found illegible. As such, we find that the furnishing of the illegible copies of the documents in the booklet would prejudice the detenu, in making an effective representation against the impugned order of detention, dated 15.7.2016. 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 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

//True Copy//

Sub Assistant Registrar

vvk

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009
2. The Commissioner of Police,
Chennai Police,
Vepery, Chennai.
3. The Public Prosecutor,
High Court, Madras.
4. The Superintendent,
Central Prison,
Puzhal, Chennai.
5. The Joint Secretary to Government,
Public (Law & Order),
Fort St. George, Chennai-9.

MP(CO)
RS(14/02/2017)

H.C.P.No.1613 of 2016