

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2017

CORAM

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

H.C.P.No.1616 of 2016

Karpagam .. Petitioner

Vs

1.The State of Tamil Nadu,
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 in No.601/BCDFGISSSV/2016, dated 27.6.2016, passed by the second respondent and to set aside the same and to direct the respondents to produce the petitioner's son, by name, Manikandan, son of Jayapal, aged about 23 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, APP

- - - -

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, Manikandan, aged about 23 years, son of Jayapaul, to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.601/2016, dated 27.6.2016, 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 "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, 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 for the petitioner contends that there is variation between the English version and the Vernacular version of the remand order, dated 12.6.2016, relating to the ground case, in Crime No.761 of 2016, on the file of E-3 Teynampet Police Station, which had been furnished to the detenu in the booklet. In page No.247 of the English version, the provisions relating to the legal aid assistance had been mentioned. But, the same is missing in page No.249 of the Vernacular version. The learned counsel had further submitted that page No.431 of the booklet, relating to the remand extension order, dated 3.3.2015, in respect of the similar case, in Crime No.1987 of 2014, on the file of R-4 Soundarapandiyanar Angadi Police Station, 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 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 there was improper translation of the remand order, dated 12.6.2016, relating to the ground case, in Crime No.761 of 2016, on the file of E-3 Teynampet Police Station, which had been furnished to the detenu in the booklet. In page No.247 of the English version, the provisions relating to the legal aid assistance had been mentioned. But, the same is found missing in page No.249 of the Vernacular version. It is further clear that a copy of the remand extension order, dated 3.3.2015, furnished to the detenu, in page No.431 of the booklet, in respect of the similar case, in Crime No.1987 of 2014, on the file of R-4 Soundarapandiyanar Angadi Police Station, is found to be illegible. Thus, 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 27.6.2016, 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/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. 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,
Chennai Police,
Vepery, Chennai.
- 3.The Superintendent, Central Prison, Puzhal,
Chennai.
- 4.The Joint Secretary to Govt.
Law & Order, Fort St.George, Chennai.
- 5.The Public Prosecutor,
High Court, Madras.

rk(co)
krd 27/2

H.C.P.No.1616 of 2016

सत्यमेव जयते

WEB COPY