

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.1640 of 2016

Sekar

...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.754/BCDFGISSSV/2016, dated 22.7.2016, passed by the second respondent and to set aside the same and to direct the respondents to produce the petitioner's son, by name, Dinesh @ Deepan Chakkaravarthy, son of Sekar, aged about 26 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 father of the detenu, namely, Dinesh @ Deepan Chakkaravarthy, aged about 26 years, son of Sekar, to issue a Writ of Habeas Corpus, to call for the records, in No.754/BCDFGISSSV/2016,

dated 22.7.2016, 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 "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 9.7.2016, relating to the ground case, in Crime No.786 of 2016, on the file of H-6 R.K.Nagar Police Station, which had been furnished to the detenu in the booklet. In page No.163 of the English version, the provisions relating to the legal aid assistance had been mentioned. However, the same is missing, in page No.164 of the Vernacular version. 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 9.7.2016, relating to the ground case, in Crime No.786 of 2016, on the file of H-6 R.K.Nagar Police Station, which had been furnished to the detenu in the booklet. In page No.163 of the English version, the provisions relating to the legal aid assistance had been mentioned. But, the same is found missing in page No.164 of the Vernacular version. 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 22.7.2016, 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,
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 Public Prosecutor,
High Court, Madras.
4. Superintendent of Central Prison,
Puzhal, Chennai.
5. Joint Secretary to Government Law & Order,
Fort, St. George, Chennai.

RK(CO)
RS(27/02/2017)

सत्यमेव जयते

H.C.P.No.1640 of 2016

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