

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.07.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE P.KALAIYARASAN

H.C.P.No.2230 of 2016

Ram Aasis Mukkiya @ Karan .. Petitioner

Vs

1.Government of Tamil Nadu
Rep. by its Secretary,
Home Prohibition and Excise [XVI] Department,
Fort St. George, Chennai-9.

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

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records in the detention order vide BCDFGISSSV No.1056/2016 dated 19.09.2016 on the file of the 2nd respondent and quash the same and direct the respondents herein to produce the body of Ram Aasis Mukkiya @ Karan, aged 26 years, S/o.Jatheesh Mukkiya, the detenu now confined in Central Prison-II, Puzhal, Chennai before this Hon'ble Court and set him at liberty forthwith.

For Petitioner : Mr.Jugal Kumar
For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

O R D E R

[Order of the Court was made by A.SELVAM, J.]

This Habeas Corpus Petition has been filed under Article 226 of the Constitution of India praying to call for records relating to the detention order dated 19.09.2016 passed in BCDFGISSSV No.1056/2016 by the Detaining Authority against the detenu by name, Ram Aasis Mukkiya @ Karan, S/o.Jatheesh Mukkiya and quash the same.

2. The Inspector of Police, Mambalam Police Station as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred that on 28.04.2016, one Ashok Dugar as the de facto complainant has given a complaint against the detenu and others and the same has been registered in Crime No.546/2016 under Section 381 of Indian Penal Code and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

3. The Detaining Authority after considering the averments made in the affidavit and other connected materials, has arrived to a subjective satisfaction to the effect that the detenu has committed the crime mentioned in the affidavit and ultimately, branded him as goonda by way of passing the impugned Detention Order and in order to quash the same, the present petition has been filed by the detenu himself as petitioner.

4. On the side of the respondents, a detailed counter has been filed, wherein, it is averred to the effect that the Sponsoring Authority has supplied all relevant materials to the Detaining Authority. The Detaining Authority after perusing all the materials, has arrived to a subjective satisfaction and consequently, passed the impugned Detention Order and therefore, the impugned Detention Order does not require interference and the present petition deserves to be dismissed.

5. The learned counsel appearing for the petitioner/detenu has contended to the effect that the detenu belongs to the State of Bihar and he does not know both English and Tamil. But, all copies of documents are only in Tamil and translated copies in Hindi have not been furnished to the detenu and therefore, the Detention Order in question is liable to be quashed.

6. Per contra, the learned Additional Public Prosecutor has contended that all copies of documents have been translated in Hindi and to that effect, endorsements have been made with the signature of interpreter. Under the said circumstances, the contention urged on the side of the petitioner/detenu cannot be accepted.

7. It is seen from the booklet that all the documents are in Tamil. The specific contention put forth on the side of the petitioner/detenu is that he does not know Tamil and therefore, translated copies of documents in Hindi have not been furnished and the same would affect the rights of the detenu.

8. As advert to earlier, there is no indication to the effect that translated copies of all documents in Hindi have been furnished to the petitioner/detenu. Since the translated copies have not been furnished to the petitioner/detenu, the

same would affect the rights of the detenu guaranteed under Article 22[5] of the Constitution of India.

9. Under the said circumstances, this Court is of the view that the Detention Order in question is liable to be quashed.

10. In fine, this Habeas Corpus Petition is allowed. The Detention Order dated 19.09.2016 passed in BCDFGISSSV No.1056/2016 by the second respondent against the detenu by name, Ram Aasis Mukkiya @ Karan, S/o.Jatheesh Mukkiya is quashed and directed the petitioner/detenu to set at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Government of Tamil Nadu,
Home Prohibition and Excise [XVI] Department,
Fort St. George, Chennai-9.
- 2.The Commissioner of Police,
Greater Chennai,
Chennai City Police,
Vepery, Chennai.
- 3.The superintendent,
central prison,
puzhal, chennai-66.
- 4.The Joint Secretary to Government,
(Public (Law & Order), Fort St.George,
Chennai-9.
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2230 of 2016

SK(CO)
GN(05/07/2017)