

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2017

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR.JUSTICE P.KALAIYARASAN

H.C.P.No.2302 of 2016

Rakesh Duttathrey Konre

.... Petitioner

vs.

1.Government of Tamil Nadu,
rep.by its Secretary,
Home Prohibition and
Excise (XVI) Department,
Fort St.George,
Chennai-600 009

2.The Commissioner of Police,
Greater Chennai,
Chennai City Police,
Vepery, Chennai-600 007

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records in the detention order vide BCDFGISSSV No.1034 of 2016, dated 06.09.2016, on the file of the 2nd respondent and quash the same and direct the respondents herein to produce the body of Thiru Rakesh Duttathrey Konre, M/A 23 years, S/o.Duttathrey Maipathy Konre, the detenu now confined in Central Prison-II, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.Jugal Kumar

For Respondents : Mr.V.M.R.Rajentren, Addl.P.P

ORDER

(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 the records relating to detention order dated 06.09.2016, passed in Memo No.1034/BCDFGISSSV/2016, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name Rakesh Duttathrey Konre, Son of Duttathrey Maipathy Konre, residing at No.657, Selkevasthi, Bipivadi, Pune District, Maharashtra and quash the same.

2. The Inspector of Police, Elephantgate Police Station, as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is averred to the effect that on 03.05.2016, one Tejpal, as defacto complainant, has given a complaint in Elephantgate Police Station against the detenu and the same has been registered in Crime No.604 of 2016, under Section 302 of the Indian Penal Code and Section 25(1-B) (a) of the Arms Act, 1959 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 documents, has derived subjective satisfaction to the effect that the detenu has involved in grave offence and ultimately branded him as a 'goonda' by way of passing the impugned 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 counter has been filed, wherein it is contended to the effect that most of the averments made in the petition are false; the sponsoring authority has furnished all the material records to the detaining authority and the detaining authority, after deriving subjective satisfaction, has passed the impugned order and thereby branded the detenu as 'Goonda' and therefore, the present petition deserves to be dismissed.

5. The learned counsel appearing for the petitioner has contended to the effect that the petitioner/detenu belongs to Maharashtra State and he studied up to 7th standard and he knows only Marathi. The detaining authority has not supplied translated version of grounds of detention as well as detention order in Marathi. Under such circumstances, the detenu is not able to make representation and further all the documents have been translated in Hindi. Since the petitioner/detenu does not know Hindi, the same would affect his rights and therefore, the detention order in question is liable to be quashed.

6.The learned Additional Public Prosecutor has contended to the effect that the petitioner/detenu has been furnished translated version of all documents in Hindi and under such circumstances, the contention put forth on the side of the petitioner/detenu, cannot be accepted.

7.It is seen from the detention order that the detenu belongs to Maharashtra State and there is no indication to the effect that the detenu knows Hindi.

8.As rightly pointed out on the side of the petitioner/detenu, no translated version of grounds of detention as well as detention order in Maharashtra have been furnished to the petitioner/detenu. Likewise, in the booklet all documents have been translated in Hindi. Since there is no indication for the purpose of coming to a conclusion that the petitioner/detenu knows Hindi, this Court is of the view that non-supply of

relevant documents in Marathi to the petitioner/detenu would affect his rights guaranteed under Article 22(5) of the Constitution of India and that itself would be sufficient to quash the detention order.

In fine this Habeas Corpus Petition is allowed. The detention order dated 06.09.2016, passed in Memo No.1034/BCDFGISSSV/2016, by the detaining authority against the detenu, by name Rakesh Duttathrey Konre, son of Duttathrey Maipathy Konre, is quashed and the respondents are directed to set him at liberty forthwith, unless he is required to be incarcerated in connection with some other case.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

msk

To

- 1.The Secretary,
Home Prohibition and
Excise (XVI) Department,
Fort St.George,
Chennai-600 009
- 2.The Joint Secretary to Government,
Public(Law & Order)
Secretariat,Chennai-9.
- 3.The Commissioner of Police,
Greater Chennai,
Chennai City Police,
Vepery, Chennai-600 007
- 4.The Superintendent,Central Prison,
Puzhal-II,Chennai.
(In duplicate for communication to detenu)
- 5.The Public Prosecutor,
High Court, Madras

H.C.P.No.2302 of 2016

mg(co)
ss(7/7/2017)