

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.2454/2018

J.Santhi

..

Petitioner

vs.

1.The Secretary to the Government
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.

2.The Commissioner of Police
Greater Chennai.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the records in connection with the order of detention passed by the 2nd respondent dated 04.08.2018 in Memo No.655/BCDFGISSSV/2018 against the petitioner son Balaji @ Laptop Balaji, male aged 28 years, son of Jeeva, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner .. Mr.S.Senthil Vel for Mr.C.Balaji

For Respondents.. Mr.C.Iyyappa Raj, APP

ORDER

(Order of the Court was made by M.SATHYANARAYANAN, J)

The mother of the detenu is the petitioner herein and challenging the legality of the impugned order of detention dated 04.08.2018 passed by the 2nd respondent, in and by which, the detenu has been branded as a 'Goonda' under the provisions of the Tamil Nadu Prevention of dangerous activities of Boot leggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982), the present petition is filed.

2 As per the Grounds of Detention dated 04.08.2018 passed by the 2nd respondent herein, the detenu came to the adverse notice in the following cases:-

i) Adverse case:

Sl No .	Name of the Police station and Crime No.	Section of law
1	R-11 Royala Nagar PS Cr.No.156/2018	454, 380 IPC
2	R-11 Royala Nagar PS Cr.No.142/2018	380 IPC
3	R-11 Royala Nagar PS Cr.No.152/2018	454, 380 IPC
4	R-11 Royala Nagar Police Station Cr.No.157/2018	380 IPC

3 It is further averred that on 24.07.2018, at about 10.00 hours, the defacto complainant, one Arulrobin, was carrying on 2 Laptops in a bag and was proceeding by walk at Anna Nagar and at that time, he was restrained by the detenu and thereafter, he was abused in filthy language and also brandished knife and stole the Laptops carried by the complainant and in this regard, a complaint was lodged, based on which, the Inspector of Police, R-11 Royala Nagar Police Station, registered a case in Cr.No.155/2018 for the commission of the offences u/s.341, 294[b], 336, 427, 392 read with 506[ii] IPC [ground case] and took up the case for investigation. Later on, he effected the arrest of the detenu on 24.07.2018 at about 12.30 hours, wherein he has admitted his involvement in the adverse cases also and also seized laptops numbering 2 and knife under the cover of Mahazar and the detenu voluntarily came forward to give a confession statement, based on which, one Imran Razzak, was also arrested and subsequently, sections were altered to one u/s.341, 294[b], 336, 427, 392, 397, 506[ii] IPC read with 411 IPC. The detenu was produced before the Court of Judicial Magistrate No.1, Poonamallee, on 25.07.2018 and he was remanded to judicial custody till 08.08.2018 and lodged at Central Prison, Puzhal, Chennai as Remand Prisoner. The Detaining Authority on a perusal and consideration of the materials has arrived at the subjective satisfaction that the fact of involvement of the detenu in the adverse cases as well as in the ground case, would be prejudicial to the maintenance of public order and hence, branded him as 'Goonda' and detained him under the Tamil Nadu Act 14 of 1982 vide impugned order and challenging the legality of the same, the present habeas corpus petition is filed.

4 The learned counsel for the petitioner has drawn the attention of this Court that in adverse cases, viz., in Cr.Nos.142/2018, 152/2018 and 156/2018 and the respective first pages of the First Information Report copies though given in English version, the translation of the same, have not been furnished and in respect of the contents of the FIRs., the vernacular version has been furnished and in the absence of the vernacular version as to the respective first pages of the said FIRs, the detenu has lost the valuable right of making an effective representation. He would further aver that despite the said infirmity being pointed out, the copies of the same have not been furnished and the same would exhibit the non-application of mind on the part of the Detaining Authority and hence, prays for quashment of the same.

5 Per contra, Mr.C.Iyyappa Raj, learned Additional Public Prosecutor appearing for the State would submit that the Detaining Authority, after due and proper application of mind has rightly clamped the order of detention and prays for dismissal of this petition.

6 This Court has considered the rival submissions and also perused the materials placed before it.

7 As rightly pointed out by the learned counsel for the petitioner, a perusal of the Booklet supplied to the detenu would disclose that the vernacular version of the respective first pages of the FIRs relating to the adverse cases in Cr.Nos.142/2018, 152/2018 and 156/2018, have not been furnished and whereas, the contents of the FIRs, which are found from the second page of the said documents, have been furnished. In the considered opinion of the Court, the truncated version of the vernacular version of the FIRs and the non-furnishing of the respective first pages of the same, would definitely result in prejudice to the detenu for the reason that he was prevented from making an effective representation to revoke the impugned order of detention and hence, on this sole ground, the detention order, impugned herein, is liable to be set aside.

8 In the result, the Habeas Corpus Petition is allowed and the detention order passed by the 2nd respondent dated 04.08.2018 made in Memo No.655/BCDFGISSSV/2018 is hereby set aside. The detenu, viz., Balaji @ Laptop Balaji, son of Jeeva, aged 28 years, who is now confined in the Central Prison, Puzhal, Chennai, is directed to be released forthwith unless his

presence [or] custody [or] detention is required in connection with any other case/proceedings.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

AP

To

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

MP (CO)
GMY (03/04/2019)

H.C.P.No.2454/2018

सत्यमेव जयते

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