

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice D.KRISHNAKUMAR

H.C.P. No. 823 of 2020

S.Palanisamy

... Petitioner

-vs-

1. The Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Fort St.George, Chennai 600 009.
2. The Commissioner of Police,
Salem City,
O/o.Commissioner of Police,
Linemedu, Salem - 636 006.
3. The Superintendent of Prison,
Central Prison, Salem,
Salem District.
4. State rep. by its
The Inspector of Police,
NIB CID Salem Unit,
Salem District.

.... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus calling for the entire records, relating to the petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 16.03.2020 on the file of the second respondent herein made in proceedings Memo CMP No.16/Drug Offender/Salem City/2020, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely Manikandan, S/o.Palanisamy, aged 30 years before this Court and set the petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison, Salem.

For Petitioner : Mr.W.Camyles Gandhi

For Respondents : Mr.R.Prathap Kumar,
Addl. Public Prosecutor

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner is the father of Manikandan, S/o.Palanisamy, aged 30 years, who is the detenu. The detenu has been detained by the second respondent in connection with order in CMP No.16/Drug Offender/Salem City/2020 dated 16.03.2020, holding him to be a "Drug Offender", as contemplated under Section 2(e) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents and we have also perused the records carefully.

3.Though learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the detaining authority, while detaining the detenu, has not furnished the legible copies of the documents relied on by him. This deprived the detenu from making effective representation. Therefore, on this sole ground, the detention order is liable to be quashed.

4.On consideration of the submissions made on either side and upon perusal of the documents available on record, especially the remand extension order at Page No.40 of the booklet, it is clear that the detaining authority, by providing illegible copies of the documents, has taken away the rights of detenu to effectively defend himself against his detention. Thus the impugned detention order is liable to be set aside on this ground.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in CMP No.16/Drug Offender/Salem City/2020 dated 16.03.2020, passed by the second respondent is set aside. The detenu, namely, Manikandan, S/o.Palanisamy, aged 30 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

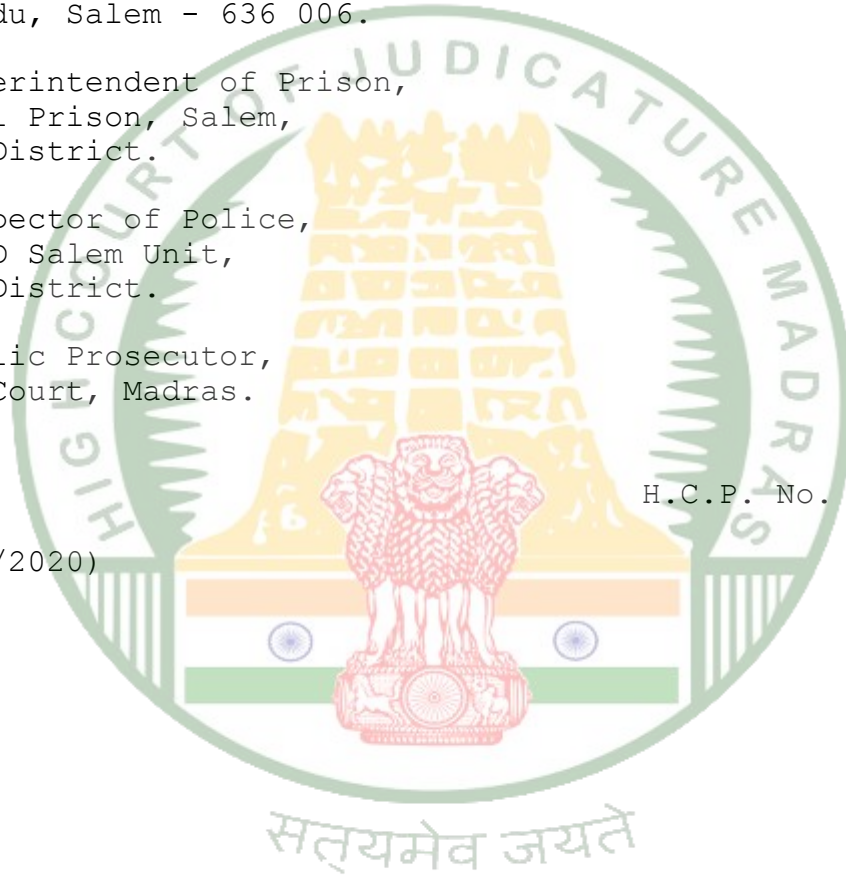
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To

- 1.The Secretary to Government
Home, Prohibition and Excise Department
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- 2.The Commissioner of Police,
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O/o.Commissioner of Police,
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- 4.The Inspector of Police,
NIB CID Salem Unit,
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- 5.The Public Prosecutor,
High Court, Madras.

SS(CO)
RMP(27/11/2020)

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