

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2020

Coram

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

H.C.P. No. 865 of 2020

Rathinam

..Petitioner

Vs.

1. The Secretary to the Government,
Home Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The District Collector and District Magistrate
of Tiruvannamalai District, Tiruvannamalai
3. The Superintendent of Police,
Tiruvannamalai District, Tiruvannamalai.
4. The Superintendent of Prison,
Central Prison, Vellore-2.
5. The Inspector of Police,
Kalasapakkam Police Station,
Tiruvannamalai District.

..Respondents

Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus calling for the records in connection with the order of detention passed by the second respondent dated 28.03.2020 in D.O.No.28/2020-C2 against the petitioner's son Dhayalan, Male aged 25 years, S/o.Rathinam, who is confined at Central Prison, Vellore, and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.D.Balaji

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 Dhayalan, Male aged 25 years, S/o.Rathinam, who is the detenu. The detenu has been detained by the second respondent by his order in D.O.No.28/2020-C2, dated 28.03.2020, holding him to be a "Goonda", as contemplated under Section 2(f) 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. We have also perused the records produced by the Detaining Authority.

3.Though the 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 the post mortem certificate has not been translated in vernacular language. 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 Page Nos.48 & 49 of the booklet, it is clear that the post-mortem certificate has not been translated in vernacular language. 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 D.O.No.28/2020-C2, dated 28.03.2020, passed by the second respondent is set aside. The detenu, namely, Dhayalan, Male, aged 25 years, S/o.Rathinam, 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

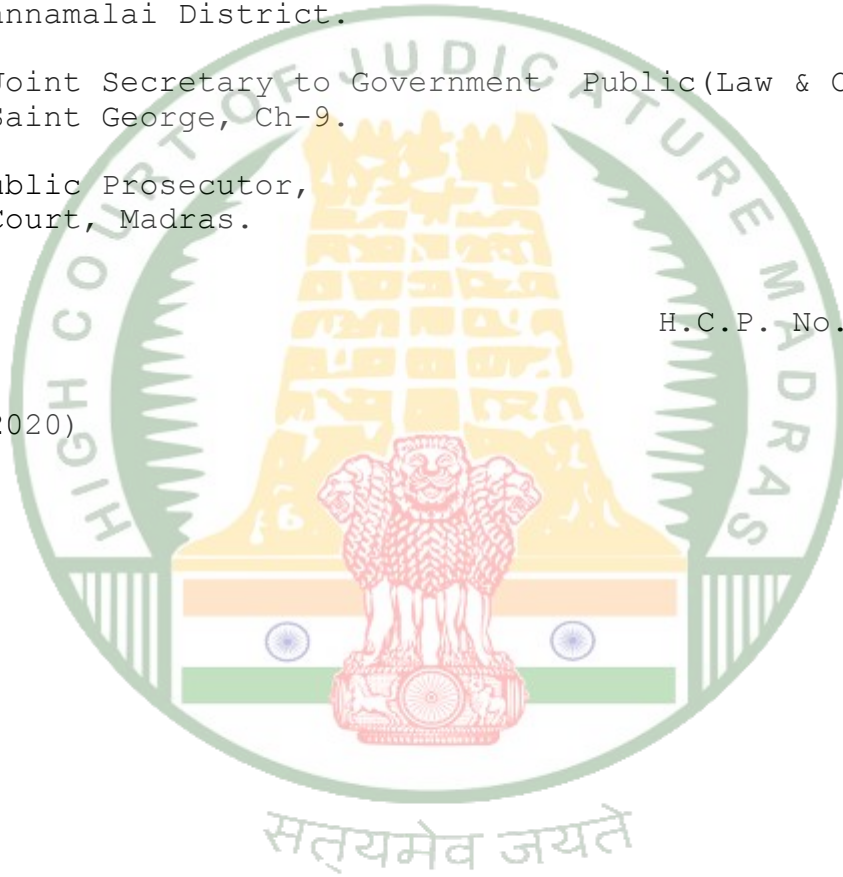
To

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

2. The District Collector and District Magistrate of Tiruvannamalai District, Tiruvannamalai
3. The Superintendent of Police, Tiruvannamalai District, Tiruvannamalai.
4. The Superintendent of Prison, Central Prison, Vellore-2.
5. The Inspector of Police, Kalasapakkam Police Station, Tiruvannamalai District.
6. The Joint Secretary to Government Public(Law & Order) Fort Saint George, Ch-9.
7. The Public Prosecutor, High Court, Madras.

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SS(CO)
RV(02/12/2020)



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