

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2021

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

H.C.P.NO.36 OF 2021

Mahalakshmi

..Petitioner

Vs.

1. State of Tamil Nadu represented by
The Secretary,
Department of Home, Prohibition and Excise,
Fort St.George,
Chennai - 600 009.
2. The Commissioner of Police,
Salem City,
Salem District.
3. The Inspector of Police,
Annathanapatty Police Station,
Salem District.
4. The Superintendent,
Central Prison,
Salem,
Salem District.

..Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records in C.M.P.No.62/Goonda/Salem City/2020 dated 24.12.2020 on the file of the second respondent herein and quash the same as illegal and direct the respondents to produce the detenu Raja @ Nagaraj, son of Madeswaran, aged about 36 years, now confined at Central Prison, Salem, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Sankarasubbu
For Respondents Mr.R.Muniyapparaj,
: Govt.Advocate
(Crl.Side)

ORDER

[Order of the Court was made by P.N.PRAKASH, J.]

The petitioner is the mother of Raja @ Nagaraj, son of Madeswaran, aged about 36 years, who is the detenu. The detenu has been detained by the second respondent by his order in C.M.P.No.62/Goonda/Salem City/2020 dated 24.12.2020, 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 Government Advocate (Crl.Side) appearing for the respondents and we have also perused the records carefully.

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 form for detaining the accused has not been properly translated in vernacular language. He further submitted 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 these grounds, 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.79 and 80 of the booklet, it is clear that the form for detaining the accused has not been properly translated in vernacular language. Thus the impugned detention order is liable to be set aside on this ground.

In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.62/Goonda/Salem City/2020 dated 24.12.2020, passed by the second respondent is set aside. The detenu, viz., Raja @ Nagaraj, son of Madeswaran, aged about 36

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

nsd

To

1. The Secretary,
Department of Home, Prohibition and Excise,
Fort St.George,
Chennai - 600 009.
2. The Commissioner of Police,
Salem City,
Salem District.
3. The Inspector of Police,
Annathanapatty Police Station,
Salem District.
4. The Superintendent,
Central Prison,
Salem,
Salem District.
5. The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.
6. The Public Prosecutor,
High Court, Madras.

AK-II(CO)
SU(12/07/2021)

H.C.P.No.36 of 2021