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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.07.2021

CORAM

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

H.C.P.NO.145 OF 2021

Jahangir

..Petitioner

Vs.

1. The Secretary to Government of Tamil Nadu,
Prohibition and Excise Department (Home),
Secretariat, Fort St.George
Chennai - 600 009.
2. The Commissioner of Police,
Commissioner Office,
Greater Chennai.Chennai - 600 007.
3. The Superintendent of Prison,
Central Prison, Puzhal, Chennai.
4. State represented by
The Inspector of Police,
Law & Order,
M-1, Madhavram Police Station,
Chennai.

..Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent in Memo No.490/BCDFGISSSV/2020 dated 30.11.2020 against the petitioner's son Mohammed Fayaz, son of Jahangir, aged about 23 years, 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 forthwith.

For Petitioner : Mr.N.Iyyakannu

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 father of Mohammed Fayaz, son of Jahangir, aged about 23 years, who is the detenu. The detenu has been detained by the second respondent by his order in Memo No.490/BCDFGISSSV/2020 dated 30.11.2020, 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 several grounds have been raised, learned counsel for the petitioner mainly focused his arguments on the ground that the remand extension order pertaining to the ground case placed before the detaining authority has not been furnished to the detenu, which caused great prejudice to the detenu and he has been prevented from making an effective representation for consideration of the authorities concerned. Therefore, the impugned order of detention is vitiated in law.

4. The learned Government Advocate (Crl.Side) opposed the habeas corpus petition by filing his counter.

5. A perusal of the booklet would go to show that the remand extension order pertaining to the ground case placed before the detaining authority has not been enclosed in the booklet furnished to the detenu. Therefore, non-furnishing of the above materials would obviously deprive of his opportunity to make effective representation and hence, we are of the opinion that the detention order is liable to be quashed on this ground.

In the result, the Habeas Corpus Petition is allowed and the order of detention in Memo No.490/BCDFGISSSV/2020 dated 30.11.2020, passed by the second respondent is set aside. The detenu, viz., Mohammed Fayaz, son of Jahangir, aged about 23 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 to Government of Tamil Nadu,
Prohibition and Excise Department (Home),
Secretariat, Fort St.George
Chennai - 600 009.
2. The Commissioner of Police,
Commissioner Office,
Greater Chennai.Chennai - 600 007.
3. The Superintendent of Prison,
Central Prison,Puzhal, Chennai.
4. The Inspector of Police,
Law & Order,
M-1, Madhavram Police Station,
Chennai.
5. The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.
6. The Public Prosecutor,
High Court, Madras.

H.C.P.No.145 of 2021

KV(CO)
RGA(23/07/2021)