

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2021

Coram

The Honourable Mr. Justice P.N.PRAKASH
and
The Honourable Mr. Justice C.SARAVANAN

H.C.P.No.112 of 2021

Nishar Ali

.. Petitioner

Vs.

- 1.State of Tamil Nadu represented by
The Secretary to Government,
Department of Home, Prohibition and Excise,
Secretariat, Fort St.George,
Chennai.
- 2.The Commissioner of Police/
Detaining Authority,
Tiruppur City.
- 3.The Superintendent of Police,
Central Prison - Coimbatore,
Coimbatore.
- 4.The Inspector of Police,
North Police Station,
Tiruppur City.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records in C.No.38/G/IS/2020 passed by the 2nd respondent on 07.11.2020 and quash the same as illegal and consequently direct the respondents to produce the petitioner's friend Sirajudheen, son of Sathick Batsha, aged about 23 years, who is now detained in Central Prison, Coimbatore, before this Court and set him at liberty.

For Petitioner : Mr.A.Elumalai

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

ORDER

[Order of the Court was made by C.SARAVANAN, J.]

The petitioner is the friend of the detenu, Sirajudheen, son of Sathick Batsha, aged about 23 years. The detenu has been detained by the second respondent by his order in C.No.38/G/IS/2020 dated 07.11.2020, holding 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 extension of interim orders in suo motu W.P. (MD).No.6126 of 2020 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. A perusal of the booklet would go to show that the extension of interim orders in suo motu W.P.(MD).No.6126 of 2020 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 C.No.38/G/IS/2020 dated 07.11.2020, passed by the second respondent is set aside. The detenu, viz., Sirajudheen, son of Sathick Batsha, aged about 23 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-II)

//True copy//

Sub Assistant Registrar

nsd

To

- 1.The Secretary to Government,
Department of Home, Prohibition and Excise,
Secretariat, Fort St.George,
Chennai.
- 2.The Commissioner of Police/
Detaining Authority,
Tiruppur City.
- 3.The Superintendent of Police,
Central Prison - Coimbatore,
Coimbatore.
- 4.The Inspector of Police,
North Police Station,
Tiruppur City.
- 5.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.
- 6.The Public Prosecutor,
High Court, Madras.

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GJ(CO)
GMY(12/07/2021)



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