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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2021

Coram

The Honourable Mr. Justice P.N.PRAKASH
and
The Honourable Mr. Justice R.PONGIAPPAN

H.C.P.No.208 of 2021

Ganesan

.. Petitioner

Vs.

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

2.The District Collector and District Magistrate,
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,
Kannamangalam Police Station,
Tiruvannamalai 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 connection with the order of detention passed by the second respondent in D.O.No.114/2020-C2 dated 23.10.2020 against the petitioner Ganesan, aged about 36 years, son of Manikkam, who is confined in Central Prison, Vellore and set aside the same and direct the respondents to produce him before this Court and set him at liberty forthwith.



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For Petitioner : Mr.S.Senthil Vel

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

ORDER

[Order of the Court was made by R.PONGIAPPAN, J.]

The petitioner is the detenu Ganesan, aged about 36 years, son of Manikkam. The detenu has been detained by the second respondent by his order in D.O.No.114/2020-C2 dated 23.10.2020, 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 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. The learned Government Advocate (Crl.Side) strongly opposed the habeas corpus petition by filing his counter.

5. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially statements under Section 161 Cr.P.C. pertaining to the similar case at Page No.122 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.



In the result, the Habeas Corpus Petition is allowed and the order of detention in D.O.No.114/2020-C2 dated 23.10.2020, passed by the second respondent is set aside. The detenu, viz., Ganesan, aged about 36 years, son of Manikkam, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

nsd

To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
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,
Kannamangalam Police Station,
Tiruvannamalai District.
- 6.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.
- 7.The Public Prosecutor,
High Court, Madras.

H.C.P.No.208 of 2021

KV (CO)
PR (02/08/2021)