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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2021

Coram

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MS. JUSTICE R.N.MANJULA

H.C.P.No.486 of 2021

Iyappan @ Dani
S/o.Kamaraj

.. Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Commissioner of Police/
Detaining Authority,
Greater Chennai,
Vepery, Chennai.

3.The Additional Superintendent,
Central Prison II,
Puzhal, Chennai.

4.The Inspector of Police cum
Sponsoring Authority,
H3, Tondiarpet Police Station,
Chennai - 600 081.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a writ of Habeas Corpus to produce the body of the petitioner, namely, Iyappan @ Dani S/o.Kamaraj, aged 23 years, who is detained by third respondent/ The Additional Superintendent, Central Prison II, Puzhal, Chennai, before this Court and set him at liberty forthwith by calling for the records pursuant to the detention order dated 22.02.2021 made in Memo No.50/BCDFGISSSV/2021 on the file of second respondent herein and quash the same.

For Petitioner : Mr.B.Gopalakrishnan

For Respondents : Mr.R.Muniyapparaj
Government Advocate [Crl.side]



ORDER

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

The petitioner viz., Iyappan @ Dani S/o.Kamaraj, aged 23 years, is the detenu. The detenu has been detained by the second respondent by his order in Memo No.50/BCDFGISSSV/2021 dated 22.02.2021, 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. We have also perused the records produced by the Detaining Authority.

3. Learned counsel for petitioner submits that page No.159 (confession statement in the similar case) in the booklet furnished to the detenu is illegible. Learned counsel further submits that the same adversely has affected his right of making an effective representation.

4. When the documents furnished to the detenu are illegible, opportunity of clear understanding and making effective representation in keeping with Article 22(5) of the Constitution of India on such understanding is lost and the detenu is deprived thereof. This would vitiate the order of detention. For the aforesaid reasons, this Court would allow the present petition.

In the result, the Habeas Corpus Petition is allowed and the order of detention in Memo No.50/BCDFGISSSV/2021 dated 22.02.2021 passed by the second respondent is set aside. The detenu, viz., Iyappan @ Dani S/o.Kamaraj, aged 23 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

gm

To

- 1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Fort St.George,
Chennai - 600 009.



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2.The Commissioner of Police/
Detaining Authority,
Greater Chennai,
Vepery, Chennai.

3.The Additional Superintendent,
Central Prison II,
Puzhal, Chennai.

4.The Inspector of Police cum
Sponsoring Authority,
H3, Tondiarpet Police Station,
Chennai - 600 081.

5.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.

6.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.B.Gopalakrishnan, Advocate, S.R.No.43344

H.C.P.No.486 of 2021

NMI (CO)
SB(31/08/2021)