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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2021

Coram

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

H.C.P.No.733 of 2021

Kumar
S/o.Sivaraj

.. Petitioner

Vs.

1. State of Tamil Nadu
represented by
Secretary to Government,
Home, Prohibition, Excise Department,
Fort St.George, Chennai - 9.
2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600007.
3. The Superintendent of Police,
Central Prison, Puzhal,
Chennai - 66.
4. The Inspector of Police,
Thiruverkadu Police Station,
Thiruvallur District.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a writ of Habeas Corpus calling for the entire records leading to the detention of Lal @ Prakash S/o.Kumar, aged about 27 years, presently lodged at Central Prison, Puzhal, Chennai and has been detained under Act 14/82 as a 'Goonda' vide detention order dated 01.10.2020 on the file of the second respondent herein made in No.398/BCDFGISSSV/2020 and quash the same and consequently, direct the respondents herein to produce the body and person of the said detenu before this Court and set him at liberty from the Central Prison, Puzhal, Chennai.



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

ORDER

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

The petitioner is the father of the detenu viz., Lal @ Prakash S/o.Kumar, aged about 27 years. The detenu has been detained by the second respondent by his order in No.398/BCDFGISSSV/2020 dated 01.10.2020, 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. We have also perused the records produced by the Detaining Authority.

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] strongly 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 material 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 No.398/BCDFGISSSV/2020 dated 01.10.2020 passed by the second respondent is set aside. The detenu, viz.,



Lal @ Prakash S/o.Kumar, aged about 27 years, is directed to be released forthwith unless his detention is required in connection with any other case.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm

To

1. The Secretary to Government,
Home, Prohibition, Excise Department,
Fort St.George, Chennai - 9.
2. The Commissioner of Police,
Greater Chennai,
Veperiy, Chennai - 600007.
3. The Superintendent of Police,
Central Prison, Puzhal,
Chennai - 66.
4. The Inspector of Police,
Thiruverkadu Police Station,
Thiruvallur District.
5. The Public Prosecutor,
High Court, Madras.
6. The Joint Secretary to Government,
Public Law and Order,
Fort St.George, Chennai - 9.

+1cc to Mr.D.Dharma, Advocate, S.R.No.33012

H.C.P.No.733 of 2021

AJB (CO)
HS(14/07/2021)