

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2021

Coram

The Hon'ble Mr. Justice P.N.PRAKASH
and
The Hon'ble Mr. Justice V.SIVAGNANAM

H.C.P. No. 1313 of 2020

Hajara .. Petitioner/MOther of the detenue

Vs

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 9.

2.The Commissioner of Police,
Greater Chennai, Vepery, Chennai - 7.

3.The Superintendent of Prison,
Central Prison, Puzhal, Chennai.

4.The Inspector of Police,
V6 Kolathur Police Station,
Chennai - 99.

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Habeas Corpus directing the respondents to produce the body of the detenu Hyder Ali @ Ali, male, age 25, S/o.Mohamed Hanir, who is detained in Central Prison, Puzhal, Chennai, before this Court and pass an order to call for the records of detention passed by the second respondent dated 06.07.2020 in Memo No.244/BCDFGISSSV/2020 against the petitioner's son Hyder Ali @ Ali, male, age 25, S/o.Mohamed Hanif and set aside the same and set the detenu at liberty.

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For Petitioner : Mr.Xavier Felix
for M/s.R.Rafi Babu

For Respondents: Mr.R.Prathap Kumar,
Addl.Public Prosecutor

ORDER

[Order of the Court was made by V.SIVAGNANAM, J.]

The petitioner is the mother of the detenu - Hyder Ali @ Ali, age 25, S/o.Mohamed Hanif. The detenu has been detained by the second respondent by his order in Memo No.244/BCDFGISSSV/2020 dated 06.07.2020, 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 Additional Public Prosecutor appearing for the respondents and we have also perused the records carefully. Learned Additional Public Prosecutor filed counter affidavit and vehemently opposed the petition.

3.Though the 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 arrest report has not been properly translated in vernacular language. This deprived the detenu from making effective representation. Therefore, on this sole ground, the detention order is liable to be quashed.

4.On consideration of the submissions made on either side and upon perusal of the documents available on record especially Page Nos.80 & 81 of the booklet, it is clear that the arrest report has not been properly translated in vernacular language. Thus the impugned detention order is liable to be set aside on this ground.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in Memo No.244/BCDFGISSSV/2020 dated 06.07.2020, passed by the second respondent is set aside. The detenu, namely, Hyder Ali @ Ali, age 25, S/o.Mohamed Hanif, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS IX)

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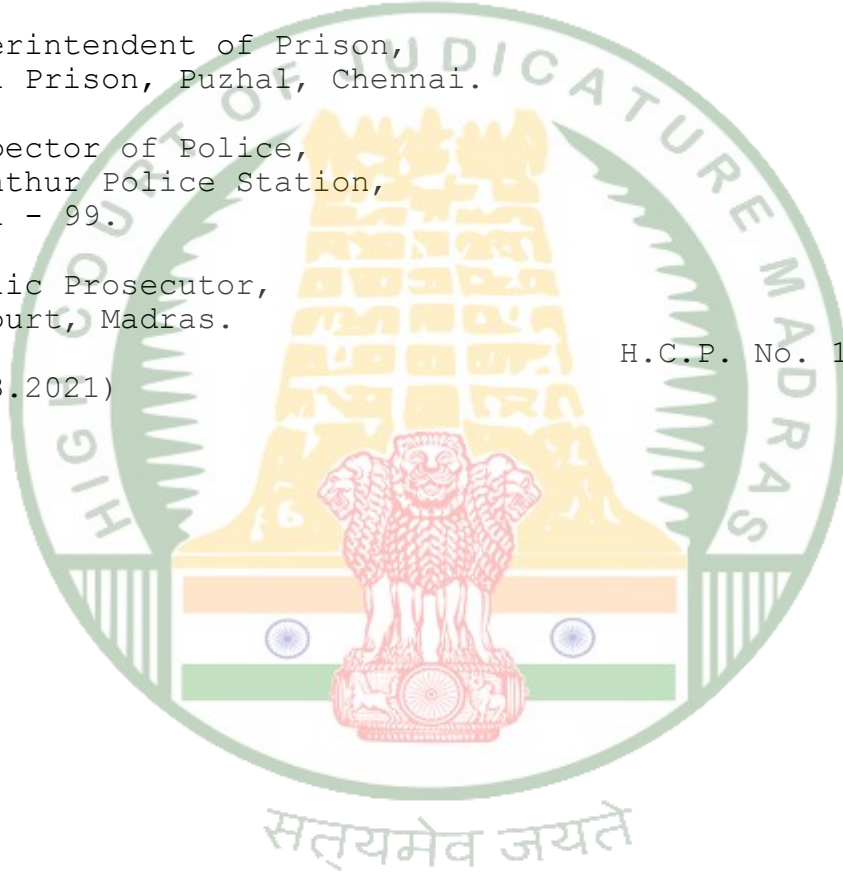
Sub Assistant Registrar

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To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 9.
- 2.The Joint Secretary to Government,
Public (Law and order) Fort.St.George, Chennai 9.
- 3.The Commissioner of Police,
Greater Chennai, Vepery, Chennai - 7.
- 4.The Superintendent of Prison,
Central Prison, Puzhal, Chennai.
- 5.The Inspector of Police,
V6 Kolathur Police Station,
Chennai - 99.
- 6.The Public Prosecutor,
High Court, Madras.

A.SK(15.03.2021)

H.C.P. No. 1313 of 2020



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