

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2021

CORAM

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

H.C.P.NO.1813 OF 2020

Palayam

..Petitioner/Father of the detenue

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,
Greater Chennai,
Office of Commissioner of Police,
Vepery, Chennai.
3. The Superintendent of Prison,
Central Prison - Puzhal II,
Puzhal, Chennai.
4. The Inspector of Police,
P-3, Vyasarpadi Police Station,
Chennai - 600 039.

..Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records in Memo No.346/BCDFGIISSSV/2020 passed by the 2nd respondent on 05.09.2020 on the file of the 2nd respondent and quash the same as illegal and consequently direct the respondent to produce the petitioner's son Arun @ 220 Arun, son of Palayam, aged about 24 years, before this Court, who now detained in Central Prison, Puzhal - II and set him at liberty.

For Petitioner : Mr.A.Elumalai

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

ORDER

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

The petitioner is the father of Arun @ 220 Arun, son of Palayam, aged about 24 years, who is the detenu. The detenu has been detained by the second respondent by his order in Memo No.346/BCDFGISSSV/2020 dated 05.09.2020, 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.

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 Additional Public Prosecutor 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 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 Memo No.346/BCDFGISSSV/2020 dated 05.09.2020, passed by the second respondent is set aside. The detenu, viz., Arun @ 220 Arun, son of Palayam, aged about 24 years, is directed to be released forthwith unless his detention is required in connection with any other case.

s/d-
Assistant Registrar(CS VII)

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,
Greater Chennai,
Office of Commissioner of Police,
Vepery, Chennai.
3. The Superintendent of Prison,
Central Prison - Puzhal II,
Puzhal, Chennai.
4. The Inspector of Police,
P-3, Vyasarpadi Police Station,
Chennai - 600 039.
5. The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.
6. The Public Prosecutor,
High Court, Madras.

H.C.P.No.1813 of 2020

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RMP/30/04/2021



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