

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2021

CORAM

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

H.C.P.NO.2231 OF 2020

K.Subash

..Petitioner

Vs.

1. State of Tamil Nadu represented by
The Secretary,
Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.

2. The Commissioner of Police,
Detaining Authority,
Coimbatore City.

3. The Superintendent of Prison,
Central Prison Coimbatore,
Coimbatore District.

4. The Inspector of Police,
C-1, Kattoor Police Station,
Coimbatore City.

..Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records of the detention dated 07.10.2020 in detention order C.No.60/G/IS/2020 on the file of the second respondent herein and quash the same and direct the respondents herein to produce the body of the detenu N.Arun Kumar, son of Nagaraj, aged about 33 years, who is now confined in Central Prison, Coimbatore, before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Thamaraiselvan

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

ORDER

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

The petitioner is the brother of N.Arun Kumar, son of Nagaraj, aged about 33 years, who is the detenu. The detenu has been detained by the second respondent by his order in C.No.60/G/IS/2020 dated 07.10.2020, 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 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 delegation of powers issued to the detaining authority has not been translated in vernacular language. He further submitted 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 these grounds, 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 Page Nos.438 & 439 of the booklet, it is clear that the delegation of powers issued to the detaining authority has not been translated in vernacular language. 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 C.No.60/G/IS/2020 dated 07.10.2020, passed by the second respondent is set aside. The detenu, viz., N.Arun Kumar, son of Nagaraj, aged about 33 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

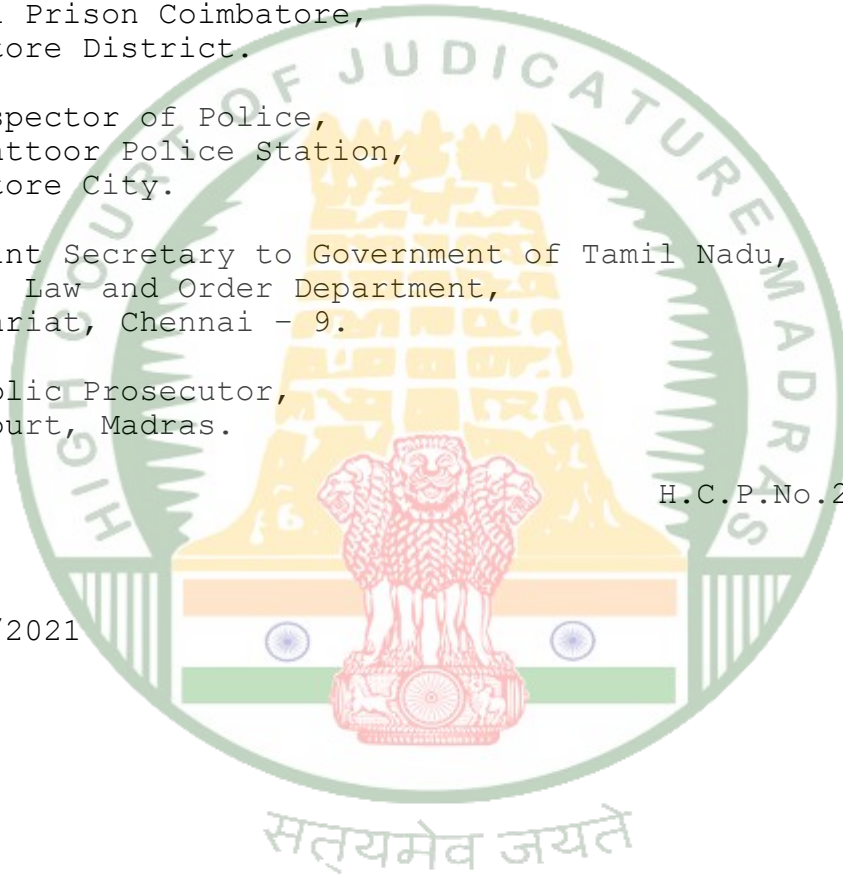
nsd

To

1. The Secretary,
Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
2. The Commissioner of Police,
Detaining Authority,
Coimbatore City.
3. The Superintendent of Prison,
Central Prison Coimbatore,
Coimbatore District.
4. The Inspector of Police,
C-1, Kattoor Police Station,
Coimbatore City.
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.2231 of 2020

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