

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2021

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Ms. Justice R.N.MANJULA

H.C.P. No.2379 of 2020

Jaffar Ali ... Petitioner/Brother of the detenu

-vs-

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.

2.The Commissioner of Police,
Salem City.

3.The Superintendent of Prison,
Central prison,
Salem.

4.The Inspector of Police,
Salem Town Police Station,
Salem City & District.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the records in connection with the order of Detention passed by the second respondent dated 30.10.2020 in C.M.P.No.55/Goonda/Salem City/2020 against the petitioner Brother Umar, Male, aged 34 years, S/o.Moideen Basha, who is confined at Central Prison, Salem and set aside the same and direct the respondents to produce the detenu before the Hon'ble Court and set him at liberty.

For Petitioner : Mr.D.Balaji

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

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner is the brother of the detenu - Umar, Male, aged 34 years, S/o.Moideen Basha. The detenu has been detained by the second respondent by his order in C.M.P.No.55/Goonda/Salem City/2020 dated 30.10.2020, 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 (Criminal Side) appearing for the respondents. We have also perused the records produced by the Detaining Authority.

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 remand extension order in Suo Motu W.P.(MD) No.6226 of 2020 has not been 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 No.95 of the booklet, it is clear that the remand extension order in Suo Motu W.P.(MD) No.6226 of 2020 has not been 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 C.M.P.No.55/Goonda/Salem City/2020 dated 30.10.2020, passed by the second respondent is set aside. The detenu, namely, Umar, aged 34 years, S/o.Moideen Basha, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

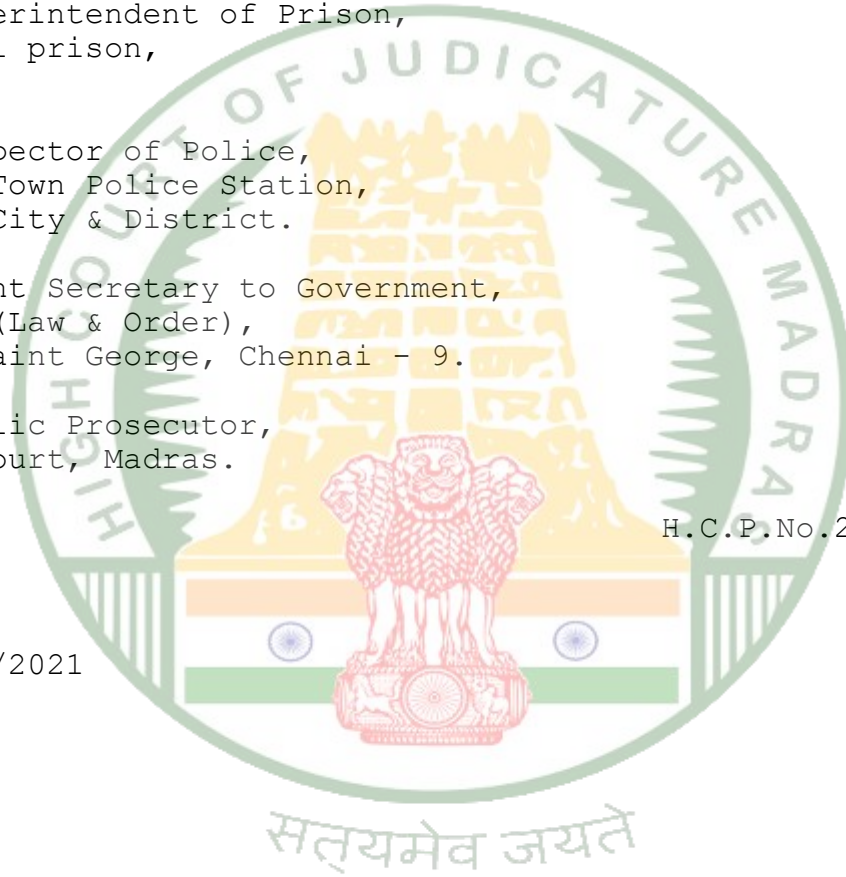
mmi/rna

To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.
- 2.The Commissioner of Police,
Salem City.
- 3.The Superintendent of Prison,
Central prison,
Salem.
- 4.The Inspector of Police,
Salem Town Police Station,
Salem City & District.
- 5.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
- 6.The Public Prosecutor,
High Court, Madras.

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