

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2021

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

H.C.P.NO.2501 OF 2020

Vijayan

.. Petitioner/
father of the detenu

..Vs..

1. The Secretary to Government of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Goondas Section,
Vepery, Chennai - 600 007.
3. The Inspector of Police,
T-11, Thirunindravur Police Station,
Chennai.
4. The Superintendent of Police,
Central Prison, Puzhal,
Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Habeas Corpus calling for the records of the detention order made in proceedings No.278/BCDFGISSSV/2020 dated 10.08.2020 passed by the Commissioner of Police, Greater Chennai, the second respondent herein and set aside the same and direct the respondents to produce the detenu before this Court and set the detenu Tamilselvan, S/o.Vijayan, aged about 25 years, now confined at Central Prison, Puzhal, Chennai, at liberty.

For Petitioner : Mr.N.Sudharsan

For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor

ORDER

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

The petitioner is the father of the detenu, Tamilselvan, S/o.Vijayan, aged about 25 years. The detenu has been detained by the second respondent by its order dated 10.08.2020 in proceedings No.278/BCDFGISSSV/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 order and 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. A perusal of the booklet would go to show that the the remand order and 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.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in proceedings No.278/BCDFGISSSV/2020 dated 10.08.2020, passed by the second respondent is set aside. The detenu, viz., Tamilselvan, S/o.Vijayan, aged about 25 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

nsd

To

1. The Secretary to Government of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Goondas Section,
Vepery, Chennai - 600 007.
3. The Inspector of Police,
T-11, Thirunindravur Police Station,
Chennai.
4. The Superintendent of Police,
Central Prison, Puzhal,
Chennai.
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.2501 of 2020

PMK (CO)
CS/29/03/2021



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