

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2021

Coram

The Honourable Mr. Justice P.N.PRAKASH
and
The Honourable Mr. Justice R.PONGIAPPAN

H.C.P.No.2566 of 2020

Prasanth ... Petitioner/Cousin Brother of the Detenu
Vs.

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The District Magistrate and
District Collector,
Salem District, Salem.
- 3.The Superintendent of Police,
Salem District, Salem.
- 4.The Superintendent of Prison,
Central Prison,
Salem.
- 5.The Inspector of Police,
Thalaivasal Police Station,
Salem 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 20.12.2020 in C.M.P.No.22/B.L.A./C2/2020 against the petitioner's cousin brother Naveen, aged about 22 years, son of Podukutti Murugesan, who is confined at Central Prison, Salem and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Senthil Vel
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 cousin brother of Naveen, aged about 22 years, son of Podukutti Murugesan, who is the detenu. The detenu has been detained by the second respondent by his order in C.M.P.No.22/B.L.A./C2/2020 dated 20.12.2020, holding him to be a "Bootlegger", as contemplated under Section 2(b) 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 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. 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 C.M.P.No.22/B.L.A./C2/2020 dated 20.12.2020, passed by the second respondent is set aside. The detenu, viz., Naveen, aged about 22 years, son of Podukutti

Murugesan, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

nsd

To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The District Magistrate and
District Collector,
Salem District, Salem.
- 3.The Superintendent of Police,
Salem District, Salem.
- 4.The Superintendent of Prison,
Central Prison,
Salem.
- 5.The Inspector of Police,
Thalaivasal Police Station,
Salem District.
- 6.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.
- 7.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2566 of 2020

RSV (CO)
GMY (02/07/2021)