



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

HCP.No.35 of 2022

Pandiyan

... Petitioner/Father of Detenue

-vs-

1.State of Tamil Nadu Represented
By Secretary to Government
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-9.

2.The District Collector and District Magistrate,
Mayiladuthurai District.

3.The Superintendent of Police,
Mayiladuthurai District.

4. The Superintendent of Police,
Central Prison, Thiruchirapalli.

5.The State rep by Inspector of Police,
Perambur Police Station,
Mayilduthurai District.

... Respondents

Prayer:

Habeas Corpus Petition filed under Article 226 of the Constitution of India to call for the records of the 2nd respondent pertaining to the order made in COC.No.21 of 2021 dated 11.11.2021 in detaining the detenu namely Sakkarai @ Charles who is detained at the Central Prison, Tiruchirapalli before this Court and set him at liberty.

For Petitioner : Mr.B.Balamurugan

For Respondents : Mr.E.Raj Thilak, APP.



O R D E R

S.VAIDYANATHAN, J.
AND
A.D.JAGADISH CHANDIRA, J.

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The petitioner is the father of the detenu Sakkarai @ Charles, son of Pandiyan, aged about 28 years. The detenu has been detained by the second respondent by his order in COC.No.21 of 2021 dated 11.11.2021, 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 Additional Public Prosecutor appearing for the respondents and we have also perused the records carefully.

3. Though 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 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 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 the documents at Page Nos.84 and 85 of the booklet, it is clear that the detaining authority has not provided legible copies, by providing illegible copies of the documents the detaining authority has taken away the rights of the detenu to effectively contest the detention order. 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 No.COC.No.21 of 2021 dated 11.11.2021, passed by the second respondent is set aside. The detenu, viz., Sakkarai @ Charles, son of Pandiyan, aged about 28 years, 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

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To

1.The Secretary to Government,State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-9.

2.The District Collector and District Magistrate,
Mayiladuthurai District.

3.The Superintendent of Police,
Mayiladuthurai District.

4. The Superintendent of Police,
Central Prison, Thiruchirapalli.

5.The State rep by Inspector of Police,
Perambur Police Station,
Mayilduthurai District.

6. The Public Prosecutor,
High Court, Madras.

7. The Joint secretary,
Public (Law & order) Department
Secretariat, Chennai.

HCP.No.35 of 2022

NMI (CO)
CT/20/06/2022