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H.C.P.No.637 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2022

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

H.C.P.No.637 of 2022

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Petitioner

v

- 1 State of Tamil Nadu
Rep. by its Secretary to Government (Home)
Prohibition and Excise Department
Fort St. George, Chennai-9
- 2 The Commissioner of Police
Tiruppur City
Tiruppur District
- 3 The Superintendent of Prison
Central Prison
Coimbatore
- 4 The Inspector of Police
Nallur Police Station
Tiruppur City
Tiruppur

Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue
a WRIT OF HABEAS CORPUS to call for the entire records of the 2nd respondent



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in his proceeding C.No.13/G/IS/TIRUPPUR CITY/2022 dated 14.03.2022 to quash the same and consequently direct the respondents to produce the petitioner's brother viz., Sivakumar @ Machasiva, aged 26 years, S/o.Pitchaimani, before this Court, now confined in the Central Prison, Coimbatore and set him at liberty.

For Petitioner Mr.N.Chinnaraj
For Respondents Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Made by P.N.PRAKASH, J.]

The petitioner is the brother of the detenu. The detenu viz., Sivakumar @ Machasiva, aged 26 years, S/o.Pitchaimani, has been detained by the 2nd respondent, by his order dated 14.03.2022 in C.No.13/G/IS/TIRUPPUR CITY/2022, 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 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



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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 observation mahazar available at Page Nos.7 and 8 of the booklet, it is clear that the detaining authority, by providing illegible copies of the documents, has taken away the rights of detenu to effectively defend himself against his detention. 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.13/G/IS/TIRUPPUR CITY/2022 dated 14.03.2022, passed by the 2nd respondent is set aside. The detenu viz., Sivakumar @ Machasiva, aged 26 years, S/o.Pitchaimani, is directed to be released forthwith, unless his detention is required in connection with any other case.

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Issue order copy by 14.12.2022

[P.N.P., J.] [N.A.V., J.]

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P.N.PRAKASH, J.

AND

N. ANAND VENKATESH, J.

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To

- 1 The Secretary to Government (Home)
Prohibition and Excise Department
Fort St. George, Chennai-9
- 2 The Joint Secretary to Government
Public, Law and Order Department
Secretariat, Chennai-9
- 3 The Commissioner of Police
Tiruppur City
Tiruppur District
- 4 The Superintendent of Prison
Central Prison
Coimbatore
- 5 The Inspector of Police
Nallur Police Station
Tiruppur City
Tiruppur
- 6 The Public Prosecutor
High Court, Madras

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