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H.C.P.No.1291 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20..12..2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mr. Justice **N.ANAND VENKATESH**

Habeas Corpus Petition No.1291 of 2022

Gopalan

... Petitioner

Vs.

1.State of Tamilnadu
Rep. by the Secretary Home,
Prohibition and excise Department,
Fort St George,
Chennai – 600 009.

2. The Commissioner of Police,
Detaining Authority,
Coimbatore.

3. The Superintendent of Prison
Central Prison, Coimbatore.

4. The Inspector of Police,
Rathinapuri Police Station,
Coimbatore City.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to
issue a writ of Habeas Corpus calling for the records relating to the



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detention order in C.No.31/G/IS/2022, dated 04.05.2022 passed by the 2nd respondent under the Tamilnadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's son G.Surya Prakash son of Gopalan aged about 21 years the detenu, now confined in Central Prison, Coimbatore before this Court and set him at liberty.

For Petitioner : Mr.M.Subash

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Order of the Court was made by P.N.PRAKASH.J.,]

The petitioner is the wife of the detenu viz., G.Surya Prakash son of Gopalan. The detenu has been detained by the second respondent by his order in C.No.31/G/IS/2022, dated 04.05.2022, 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. 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 on the



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ground that observation mahazar in 12th adverse case was not photocopied legibly and it was not readable. This deprived the detenu from making effective representation. Therefore, on this 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 in 12th adverse case, at Page No.76 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.31/G/IS/2022, dated 04.05.2022 passed by the second respondent is set aside. The detenu viz., G.Surya Prakash son of Gopalan, is directed to be released forthwith unless his detention is required in connection with any other case.

(P.N.P., J.) (N.A.V.,J.)
20..12..2022

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1. The Secretary Home,
Prohibition and excise Department,
Fort St George,
Chennai – 600 009.
2. The Commissioner of Police,
Detaining Authority,
Coimbatore.
3. The Superintendent of Prison
Central Prison, Coimbatore.
4. The Inspector of Police,
Rathinapuri Police Station,
Coimbatore City.
6. The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai – 9.
7. The Public Prosecutor,
High Court, Madras.



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