



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2022

Coram

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

H.C.P.No.2098 of 2021

Periyathaye
W/o.Rajagounder

.. Petitioner

Vs.

State represented by

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai - 9.

2.The Commissioner of Police,
Salem City,

3.The Superintendent of Prison,
Central Prison, Salem.

4.The Inspector of Police,
Kondalampatty Police Station,
Salem.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the entire records connected with the detention order in C.M.P.No.35/Goonda/Salem City/2021 dated 14.06.2021 on the file of the second respondent and quash the same as illegal and direct the respondents to produce the detenu Santhosh s/o.Raja Gounder, aged about 35 years, now confined at Cetnral Prison, Salem, before this Court and set him at liberty.

For Petitioner : Ms.S.Sengkodi

For Respondents: Mr.M.Babu Muthu Meeran
Additional Public Prosecutor



ORDER

[Order of the Court was made by A.A.NAKKIRAN, J]

WEB COPY The petitioner is the mother of the detenu viz., Santhosh s/o.Raja Gounder, aged about 35 years. The detenu has been detained by the second respondent by his order in C.M.P.No.35/Goonda/Salem City/2021 dated 14.06.2021, holding him to be a "Goonda", as contemplated under Section 2(f) of the 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. Learned counsel for petitioner submits that page Nos.17 and 135 in the booklet furnished to the detenu are illegible. Learned counsel further submits that the same adversely has affected the detenu's right of making an effective representation.

4. When the documents furnished to the detenu are illegible, opportunity of clear understanding and making effective representation in keeping with Article 22(5) of the Constitution of India on such understanding is lost and the detenu is deprived thereof. This would vitiate the order of detention. For the aforesaid reasons, this Court would allow the present petition.

In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.35/Goonda/Salem City/2021 dated 14.06.2021 passed by the second respondent is set aside. The detenu, viz., Santhosh s/o.Raja Gounder, aged about 35 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

gm



To

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai - 9.

2.The Commissioner of Police,
Salem City,

3.The Superintendent of Prison,
Central Prison, Salem.

4.The Inspector of Police,
Kondalampatty Police Station,
Salem.

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.2098 of 2021

bp(CO)

A.SK(20/04/2022)