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H.C.P.No.974 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.01.2023

CORAM

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

H.C.P.No.974 of 2022

Dhanapalan

.. Petitioner

Vs.

1.State of Tamil Nadu represented by
its Secretary,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.

2.The Commissioner of Police,
Greater Chennai, Vepery,
Chennai – 600 007..

3.The Inspector of Police,
CCBI, Greater Chennai,
Vepery, Chennai – 600 007.

4.The Superintendent of Central Prison,
Central Prison, Puzhal,
Chennai – 600 066.

.. Respondents



H.C.P.No.974 of 2022

Petition filed under Article 226 of the Constitution of India, praying

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to issue a WRIT OF HABEAS CORPUS to call for the records made in impugned order Memo No.115/BCDFGISSSV/2022 dated 12.05.2022 on the file of the Commissioner of Police, Greater Chennai, Vepery, Chennai – 600 007, the second respondent herein and quash the same as illegal and direct the respondents to produce the detenu Thiruvarur Jagadeesan @ Ravikumar, son of Dhanapalan, aged 36 years, now confined in the Central Prison, Puzhal II, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner is the father of the detenu viz., Thiruvarur Jagadeesan @ Ravikumar, son of Dhanapalan, aged 36 years. The detenu has been detained by the 2nd respondent by his order in Memo No.115/BCDFGISSSV/2022 dated 12.05.2022, 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.



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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 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. The learned Additional Public Prosecutor strongly opposed the habeas corpus petition by filing his counter. He further submitted that the detenu was arrested on 11.04.2022 and on completion of the investigation, charge sheet was filed before the Special Court for the Exclusive Trial of CCB and CBCID Cases, Egmore, on 22.08.2022 on time and the same was taken on file as C.C.No.9892 of 2022 and the case has been posted on 10.01.2023.



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5. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially the Form 91 pertaining to the ground case at Page No.389 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 Memo No.115/BCDFGISSSV/2022 dated 12.05.2022, passed by the second respondent is set aside. The detenu viz., Thiruvavarur Jagadeesan @ Ravikumar, son of Dhanapalan, aged 36 years, 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.]
09.01.2023

nsd



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To

1.The Secretary,
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2.The Commissioner of Police,
Greater Chennai, Vepery,
Chennai – 600 007..

3.The Inspector of Police,
CCBI, Greater Chennai,
Vepery, Chennai – 600 007.

4.The Superintendent of Central Prison,
Central Prison, Puzhal,
Chennai – 600 066.

5.The Joint Secretary to Government,
Public, Law and Order Department,
Secretariat, Chennai-9.

6.The Public Prosecutor,
High Court, Madras.



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P.N.PRAKASH, J.
AND
N.ANAND VENKATESH, J.

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