



H.C.P.No.1304 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.01.2023

CORAM

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

H.C.P.No.1304 of 2022

Rajeshkannan

.. 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,
Hasthampatty Police Station,
Salem.

.. Respondents



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

to issue a WRIT OF HABEAS CORPUS to call for the records in C.M.P.No.61/Goonda/Salem City/2022 dated 16.06.2022 on the file of the second respondent and quash the same as illegal and direct the respondents to produce the detenu Moorthy, S/o.Ammasi, aged about 35 years, now confined at the Central Prison, Salem and set him at liberty.

For Petitioner : Ms.S.Sengkodi

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner is the brother of the detenu viz., Moorthy, S/o.Ammasi, aged about 35 years. The detenu has been detained by the 2nd respondent by his order in Memo C.M.P.No.61/Goonda/Salem City/2022 dated 16.06.2022, 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 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 remand application pertaining to the ground case at Page Nos.61 and 62 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.



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In the result, the Habeas Corpus Petition is allowed and the order of detention in Memo C.M.P.No.61/Goonda/Salem City/2022 dated 16.06.2022, passed by the second respondent is set aside. The detenu viz., Moorthy, S/o.Ammasi, aged about 35 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.]
10.01.2023

nsd



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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,
Hasthampatty Police Station,
Salem.

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.

nsd

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