



HCP.No.1006/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.10.2023

CORAM

THE HONOURABLE MR . JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1006/2023

Mubarak Basha

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Petitioner

Versus

- 1.The Secretary to the Government
Home, Prohibition & Excise Department
Secretariat, Chennai 600 009.
- 2.The District Collector & District Magistrate
of Tiruvannamalai District, Tiruvannamalai.
- 3.The Superintendent of Police
Tiruvannamalai District, Tiruvannamalai.
- 4.The Superintendent of Prison
Central Prison, vellore-2.
- 5.the Inspector of Police
Tiruvannamalai East Police Station
Tiruvannamalai & District.

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Respondents



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Prayer:- Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus calling for the records in connection with the order of detention passed by the 2nd respondent dated 25.05.2023 in D.O.No.52/2023 petitioner / detenu Mubarak Basha, Male aged 20 years S/o.Raffik Basha who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.D.Balaji
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

(Order of the Court was made by S.S.SUNDAR, J.)

(1)The petitioner, who is the detenu himself, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 25.05.2023 slapped on him, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].



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(2) Heard the learned counsel for the petitioner and the learned Additional

Public Prosecutor appearing for the respondents.

(3) Though several points have been raised by the learned counsel for the petitioner, it is stated that the detention order is liable to be quashed on the sole ground that the detenu was furnished with a defective translation of the bail order relied upon by the Detaining Authority in a similar case to arrive at the subjective satisfaction about the possibility of the detenu's release on bail.

(4) It is seen that in page No.177 of the Booklet furnished to the detenu, the English version of the similar case bail order granted by this Court in CrI.OP.No.290/2014 dated 07.01.2014 relating to a case in Crime No.695/2013 registered by Tiruvannamalai Town Police Station, has been furnished. However, the said bail order has been wrongly translated in the vernacular version on the subsequent page. The Detaining Authority, has referred to the said order of this Court in CrI.OP.No.290/2014 as a similar case, to arrive at the subjective satisfaction that the detenu is likely to be released on bail. The erroneous translation of the vital document in vernacular language would deprive the detenu of making effective



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representation to the authorities against the order of detention. Thus, the detention order is vitiated on this ground and the same is liable to be quashed.

(5) We remind ourselves of Powanammal principle i.e., ratio in ***Powanammal Vs. State of Tamil Nadu*** reported in (1999) 2 SCC 413, wherein the Hon'ble Supreme Court addressed itself to this translation point in a similar fact situation. The question which the Hon'ble Supreme Court addressed itself to is captured in paragraph 6 and the manner in which a Hon'ble Bench of the Supreme Court answered this question is captured in paragraph 16. Paragraphs 6 and 16 {as in SCC journal} read as follows:

"6.The short question that falls for our consideration is whether failure to supply the Tamil version of the order of remand passed in English, a language not known to the detenue, would vitiate her further detention.

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16. For the above reasons, in our view, the non-supply of the Tamil version of the English document,



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on the facts and in the circumstances, renders her continued detention illegal. We, therefore, direct that the detenue be set free forthwith unless she is required to be detained in any other case. The appeal is accordingly allowed."

(6) Thus, the detention order is vitiated on the ground of defective translation and hence, the same is liable to be quashed.

(7) In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 25.05.2023 in D.O.No.52/2023 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Mubarak Basha, S/o.Raffik Basha, aged 20 years, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[SSSRJ] [SMJ]
06.10.2023

AP



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To

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- 6.The Public Prosecutor
High Court, Madras.



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S.S.SUNDAR, J.,
AND
SUNDER MOHAN, J.,

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