



WEB COPY



HCP.No.1775/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.10.2023

CORAM

THE HONOURABLE MR . JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1775/2023

Imdad Basha @ Imran

..

Petitioner

Versus

1.The Additional Chief Secretary to Government
Home, Prohibition & Excise [XVI] Department
Fort St George, Secretariat, Chennai 600 009.

2.The Commissioner of Police
Office of the Commissioner of Police
Greater Chennai, Chennai District.

3.The Superintendent of Prison
Central Prison at Puzhal
Thiruvallur District 600 066.

4.The Inspector of Police
Anti Vice Squad II, Greater Chennai.

..

Respondents



HCP.No.1775/2023

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 Detention Order No.69/BCDFGISSSV/2023 DATED 18.03.2023 on the file of the 2nd respondent and set aside the same and direct the respondents herein to produce the body of the petitioner/detenu Imdad Basha @ Imran, S/o.Akbar Basha aged 23 years, now confined in Central Prison, Puzhal, before this Court and set him at liberty.

For Petitioner : Mrs.B.Subadhra Devi

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

(1)The petitioner, detenu herein, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 18.03.2023 slapped on him, branding him as "Immoral Traffic Offender" 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].



HCP.No.1775/2023

WEB COPY

(2) Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

(1) Though several points have been raised by the learned counsel for the petitioner, the detention order is liable to be quashed on the sole ground that the subjective satisfaction of the Detaining Authority while stating that the detenu is likely to be released on bail, by relying upon the Remand Order of the ground case, whose vernacular translation is defective, suffers from non-application of mind and the detention order is vitiated on that ground.

(2) It is seen that the Remand Order in the Ground case was not properly translated in Tamil language, the language known to the detenu. It is therefore, stated that the detenu is deprived of making effective representation. This Court finds from page Nos.633 to 635 of the Booklet, the order of Remand dated 01.03.2023 and its Tamil translation. Though in the English version, it is stated that the detenu was given the Memo of Arrest and the provisions with regard to legal assistance was explained to the accused, the Tamil translation does not refer to the explanation regarding legal assistance to the detenu. Therefore, the



HCP.No.1775/2023

WEB COPY

subjective satisfaction is irrational and the order of detention is vitiated and suffers from non-application of mind and consequently, the detenu is deprived of an opportunity to make an effective representation. On this sole ground, the detention order is liable to be quashed.

(3)In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 18.03.2023 in BCDFGISSSV No.69/2023 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Imdad Basha @ Imran, S/o.Akbar Basha aged 23 years, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[SSSRJ] [SMJ]
13.10.2023

AP



HCP.No.1775/2023

WEB COPY

To

- 1.The Additional Chief Secretary to Government
Home, Prohibition & Excise [XVI] Department
Fort St George, Secretariat, Chennai 600 009.
- 2.The Commissioner of Police
Office of the Commissioner of Police
Greater Chennai, Chennai District.
- 3.The Superintendent of Prison
Central Prison at Puzhal
Thiruvallur District 600 066.
- 4.The Inspector of Police
Anti Vice Squad II, Greater Chennai.
- 5.The Public Prosecutor
High Court, Madras.



WEB COPY



HCP.No.1775/2023

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

AP

H.C.P.No.1775/2023

13.10.2023