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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION(MD)No.1106 of 2014

Muthumari .. Petitioner

Vs.

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
- 2.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai.
- 4.The Inspector of Police,
E.3, Anna Nagar Police Station,
Madurai District. .. Respondents

Prayer:- Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus praying to call for the entire records connected with the detention order of the respondent No.2 in Order No.50/BDFGISSV/2014, dated 08.09.2014 and quash the same and direct the respondents to produce the detenu by name Vadivel, Son of Raju, aged about 32 years now detained in Central Prison, Madurai before this Court and set him at liberty forthwith and pass such further or other orders.

For Petitioner	: Mr.R.Alagumani
For Respondents	: Mr.A.Ramar,
	Addl.Public Prosecutor

ORDER

(Order of the Court was made by A.SELVAM, J)

This Habeas Corpus Petition has been filed under Article 226 of the Constitution of India praying to call for records relating to detention order passed in Order No.50/BDFGISSV/2014, dated 08.09.2014 by the detaining authority, who has been arrayed as second respondent herein, against the detenu by name Vadivel, Son of Raju and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Anna Nagar Police Station as sponsoring authority has submitted an affidavit to the detaining authority wherein it is stated to the effect that the detenu has involved in the following adverse cases:

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(i) Crime No.75 of 2014 registered under Sections 147, 148, 294(b), 336, 307 of the Indian Penal Code and also under Section 3(i) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 on the file of E.3 Anna Nagar Police Station.

(ii) Crime No.76 of 2014 registered under Sections 147, 148, 336 and 307 of the Indian Penal Code and also under Section 3(i) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 on the file of E.3 Anna Nagar Police Station.

(iii) Crime No.412 of 2014 registered under Sections 341, 294(b), 506(i) of the Indian Penal Code altered into Sections 341, 294(b) and 506(i) of the Indian Penal Code read with Section 7(1)(a) of CLA Act on the file of E.3 Anna Nagar Police Station.

3. Further it is stated in the affidavit that on 22.01.2014 one Saravanan has lodged a complaint to the Inspector of Police, E.3 Anna Nagar Police Station against the detenu and others and the same has been registered in Crime No.895 of 2014 under Sections 147, 148 and 302 of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

4. The detaining authority, after considering the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as 'Goonda' by way of passing the impugned detention order and in order to quash the same, the present Habeas Corpus Petition has been filed by the wife of the detenu as petitioner.

5. On the side of the respondents, a detailed counter has been filed, wherein it has been contended that all the averments made in the petition are false and ultimately prayed to dismiss the same.

6. The learned counsel appearing for the petitioner has contended that on the side of the detenu, three representations have been given and with regard to representations 1 and 3, lot of delay has occurred in disposing of the same and therefore, the detention order in question is liable to be quashed.



7. The learned Additional Public Prosecutor has contended that the representations submitted on the side of the detenu have been duly disposed of without delay and therefore, the detention order in question does not require any interference.

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8. On the side of the respondents, a proforma has been submitted wherein it has been clearly stated that with regard to first representation in between column Nos.7 to 9 four clear working days and in between column Nos.12 and 13 five clear working days are available and likewise, with regard to third representation in between column Nos.7 to 9 four clear working days and in between column Nos.12 and 13 six clear working days are available and no explanation has been given on the side of the respondents with regard to huge delay and that itself would affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India and therefore, the detention order in question is liable to be quashed.

9. In fine, this Habeas Corpus Petition is allowed and the order of detention dated 08.09.2014 in Order No.50/BDFGISSV/2014 passed by the second respondent/detaining authority is quashed and consequently, the detenu Vadivel, Son of Raju is ordered to be set at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(T & P)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
 - 2.The Commissioner of Police,
Office of the Commissioner of Police, Madurai City.
 - 3.The Superintendent of Prison, Madurai Central Prison, Madurai.
 - 4.The Inspector of Police, E.3, Anna Nagar Police Station,
Madurai District.
 - 5.The Joint Secretary to Government of Tamilnadu,
Public (Law & order) Department, Fort St.George, Chennai-9.
 - 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1cc to Mr.R.Alagumani, Advocate, in SR. No.2940.

ORDER MADE IN

H.C.P (MD) No.1106 of 2014

21.01.2015