



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION (MD) No.1119 of 2014

Rajeshwari

.. Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

2.The Commissioner of Police,
Madurai City,
Madurai.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

.. Respondents

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 second respondent in detention order No.47/BDFGISSV/2014 dated 28.08.2014 and quash the same and direct the respondents to produce the body and person of petitioner's son by name Sivamani, aged 26 years, S/o.Late.Selvam detained in Madurai Central Prison before this Court and set him at liberty and pass such further or other orders.

For Petitioner : Mr.R.Venkatesan

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 No.47/BDFGISSV/2014 dated 28.08.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Sivamani, S/o.Selvam and quash the same and thereby set him at liberty forthwith.



2.The Inspector of Police, B1 Vilakkuthoon Police Station as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that the detenu has involved in the following adverse cases:

(i)Crime No.243 of 2013, B6 Jaihindpuram Police Station registered under Sections 341, 323, 324 and 506(ii) of the Indian Penal Code.

(ii)Crime No.876 of 2013, B3 Teppakulam Police Station registered under Sections 147, 148, 341, 447 and 307 of the Indian Penal Code @ Sections 120(b), 147, 148, 341, 449, 114, 307, 109 of the Indian Penal Code and Section 25(1) (A) of Arms Act.

(iii)Crime No.1021 of 2013, B1 Vilakkuthoon Police Station registered under Sections 147, 148, 341 and 302 of the Indian Penal Code.

3.Further it is stated in the affidavit that on 03.05.2014 one Veerakumar has lodged a complaint against the detenu in B1 Vilakkuthoon Police Station and the same has been registered in Crime No.343 of 2014 under Sections 397 and 506(ii) of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

4.The detaining authority viz., second respondent herein after perusing the averments made in the affidavit coupled with other connected documents has derived subjective satisfaction to the effect that the detenu is a habitual offender and thereby 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 mother of the detenu as petitioner.

5.On the side of the respondents a detailed counter has been filed, wherein it has been contended to the effect 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 two representations have been submitted and the same have not been disposed of without delay and therefore the detention order in question is liable to be quashed.

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

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, five clear working days are available and in between Column Nos.12 and 13, four clear working days are available and further it is seen from the proforma with regard to second representation a huge delay has occurred and no explanation has been given on the side of the respondents with regard to such 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 detention order passed in No.47/BDFGISSV/2014 dated 28.08.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Sivamani, S/o.Selvam at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar(C.S.)

To

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

2.The Commissioner of Police,
Madurai City,
Madurai.

3 The Joint Secretary to Government,
Public (Law & Order) Fort St.Geroge, Chennai 600 009.

4.The Superintendent of Prison,
Madurai Central Prison,
Madurai District. **(in duplicate to communicate the detenue)**

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr. R.Alagumani, Advocate in SR.No. 3805

TS/29.01.2015/2P-8C

ORDER MADE IN
H.C.P (MD) No.1119 of 2014

23.01.2015