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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION (MD) No.1146 of 2014

Nadiammal,
W/o.Karuppaiah,
No.242, Malayala Bhagavathi Amman Kovil Street,
Solaialagupuram 3rd Street,
Madurai - 11.

.. 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

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 Detention Order No.48/BDFGISSV/2014, dated 03.09.2014 and quash the same and direct the respondents to produce the body and person of the petitioner's son by name Senthil Kumar @ Undial Senthil, aged 26 years, S/o.Karuppaiah detained in Madurai Central Prison before this Court and set him at liberty forthwith 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 Detention Order No.48/BDFGISSV/2014, dated 03.09.2014 by the detaining authority, who has been arrayed as second respondent herein, against the detenu by name Senthil Kumar @ Undial Senthil, Son of Karuppaiah and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, B6 Jaihindpuram 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.139 of 2014 on the file of B6 Jaihindpuram Police Station registered under Sections 147, 148, 294(b) and 307 of the Indian Penal Code.

(ii) Crime No.482 of 2014 on the file of B6 Jaihindpuram Police Station registered under Sections 147, 148, 294(b), 324 and 506(ii) altered into Section 302 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 17.06.2014 one Madhankumar of Jeevanagar as complainant has lodged a complaint against the detenu in B6 Jaihindpuram Police Station and the same has been registered in Crime No.485 of 2014 under Sections 341, 392 read with 397 and 506(ii) of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

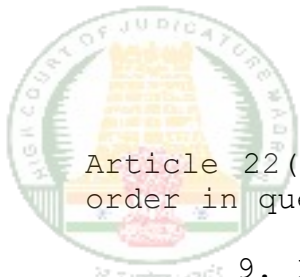
4. The detaining authority, after perusing the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as 'Goonda' by way of passing the impugned detention order and in order to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

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

7. Per contra, the learned Additional Public Prosecutor has contended that all the representations submitted on the side of the detenu have been duly disposed of without delay and therefore, the detention order in question is not liable to be quashed.

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 two clear working days are available and in between column Nos.12 and 13 five clear working days are available and likewise, with regard to second representation 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 thirteen clear working days are available and no explanation has been given on the side of the respondents with regard to huge delay in disposing of the representations submitted on the side of the detenu 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 03.09.2014 in Detention Order No.48/BDFGISSV/2014 passed by the second respondent/detaining authority is quashed and consequently, the detenu Senthil Kumar @ Undial Senthil, Son of Karuppaiah 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,
Secretariat,
Chennai - 600 009.
- 2.The Commissioner of Police,
Madurai City,
Madurai.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Joint Secretary,
Public (Law & Order),
Government of Tamilnadu, Fort St.George,
Chennai - 9.

ORDER MADE IN
H.C.P (MD) No.1146 of 2014
30.01.2015

ps

PA/03.02.15/3P/6C