



WEB COPY

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

HABEAS CORPUS PETITION (MD) No.1194 of 2014

Sulaiman

.. Petitioner

Vs.

1.State of Tamil Nadu,

Rep. By The Secretary to the Government,  
Home, Prohibition and Excise Department,  
Fort St. George,  
Chennai - 9.

2.The District Collector and District Magistrate,  
O/o.District Collector and District Magistrate,  
Tiruchirappalli District,  
Tiruchirappalli.

3.The Superintendent of Central Prison,  
Central Prison,  
Tiruchirappalli.

.. 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 entire records in detention order passed in Cr.M.P.No.44 of 2014, dated 09.10.2014 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's son, namely Allapitchai, Son of Sulaiman, aged 29 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.K.A.S.Prabhu

For Respondents : Mr.A.Ramar,  
Additional 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 Cr.M.P.No.44 of 2014, dated 09.10.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Allapitchai, Son of Sulaiman and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Tiruverumbur 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.699 of 2012 Tiruppur District Udumalpet Police Station registered under Section 392 of the Indian Penal Code.

(ii) Crime No.335 of 2012 Tiruppur District Udumalpet Police Station registered under Section 379 of the Indian Penal Code.

(iii) Crime No.476 of 2012 Tiruppur District Udumalpet Police Station registered under Section 392 of the Indian Penal Code.

(iv) Crime No.674 of 2012 Tiruppur District Udumalpet Police Station registered under Sections 454 and 380 of the Indian Penal Code.

(v) Crime No.696 of 2012 Tiruppur District Udumalpet Police Station registered under Sections 454 and 380 of the Indian Penal Code.

(vi) Crime No.764 of 2012 Tiruppur District Udumalpet Police Station registered under Section 392 of the Indian Penal Code.

(vii) Crime No.123 of 2013 Pudukkottai District Illuppur Police Station registered under Section 379 of the Indian Penal Code.

(viii) Crime No.89 of 2014 Pudukkottai District Viralimalai Police Station registered under Section 379 of the Indian Penal Code.

(ix) Crime No.48 of 2014 Pudukkottai District Illuppur Police Station registered under Sections 457 and 380 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 10.07.2014 one Sathishkumar as complainant has given a complaint to the Inspector of Police, Tiruverumbur Police Station against the detenu and the same has been registered in Crime No.390 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.

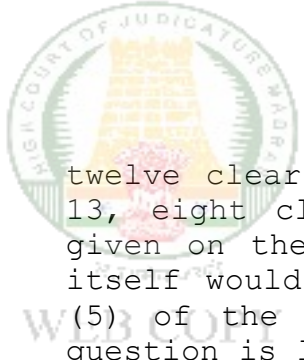
4. The detaining authority after considering the averments made in the affidavit coupled with other connected documents has derived subjective satisfaction to the effect that the detenu is a habitual offender and thereby branded him as 'Goonda' by way of passing the impugned detention order and in order to quash the same, the present Habeas Corpus Petition has been filed by the father 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 a representation has been submitted and the same has 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 considered and disposed of without delay and therefore the detention order in question does not call for any interference.

<https://hcservices.secure.gov.in/hcservices/> On the side of the respondents, a proforma has been submitted wherein it has been clearly stated that in between Column Nos.7 to 9,



twelve clear working days are available and in between Column Nos.12 and 13, eight 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 detention order dated 09.10.2014 passed in Cr.M.P.No.44 of 2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Allapitchai, Son of Sulaiman 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 the Government,  
Home, Prohibition and Excise Department,  
Fort St. George,  
Chennai - 9.
- 2.The District Collector and District Magistrate,  
O/o.District Collector and District Magistrate,  
Tiruchirappalli District,  
Tiruchirappalli.
- 3.The Superintendent of Central Prison,  
Central Prison,  
Tiruchirappalli.(n duplicate to communicate the detenue)
- 4 The Joint Secretary to the Government,  
Public (Law & Order)  
Fort St. George,  
Chennai - 600 009.
- 5.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1cc to M/S. K.A.S.Prabhu, Advocate in SR.No. 10135

TS/06.03.2015/3P-8C