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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION (MD) No.1281 of 2014

Karthikeyan

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 9.

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

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 C.O.C.No.51/2014, dated 24.10.2014 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 brother namely Gopal @ Gopalakrishnan, Son of Paramu @ Paramasivam, male, aged 27 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty and pass such further or other orders.

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

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 C.O.C.No.51/2014, dated 24.10.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Gopal @ Gopalakrishnan, Son of Paramu @ Paramasivam and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Prohibition Enforcement Wing, Sirkazhi 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.330 of 2014 Sirkazhi Prohibition Enforcement Wing registered under Section 4(1)(aaa) read with 4(1-A) TNP Act, 1937.

(ii) Crime No.358 of 2014 Sirkazhi Prohibition Enforcement Wing registered under Section 4(1)(aaa) read with 4(1-A) TNP Act, 1937.

(iii) Crime No.349 of 2014 Puthupattinam Police Station registered under Section 4(1)(aaa) TNP Act, 1937.

(iv) Crime No.418 of 2014 Sirkazhi Prohibition Enforcement Wing registered under Section 4(1)(aaa) read with 4(1-A) TNP Act, 1937 and 4 and 5 of TNRS Rules.

3. Further it is stated in the affidavit that on 13.10.2014, the Inspector of Police, Prohibition Enforcement Wing, Sirkazhi has conducted a raid and ultimately found that the detenu is in possession of illicit arrack and consequently a case has been registered in Crime No.423 of 2014 under Sections 4(1)(aaa), 4(1)(i) read with 4(1-A) TNP Act, 1937 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 'Boot Legger' 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 brother 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 are not 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 representations submitted on the side of the detenu are duly considered and 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, six clear working days are available and with regard to second representation in between Column Nos.7 to 9, nine clear working days are available and in between Column Nos.12 and 13, five 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 his rights 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 C.O.C.No.51/2014, dated 24.10.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Gopal @ Gopalakrishnan, Son of Paramu @ Paramasivam 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,
Fort St. George,
Chennai - 9.
- 2.The District Collector
and District Magistrate,
O/o.The District Collector
and District Magistrate,
Nagapattinam District,
Nagapattinam.
- 3.The Superintendent of Central Prison,
Central Prison,
Tiruchirappalli. (in duplicate to communicate the detenu)
- 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. 15541

TS/31.03.2015/3P-8C

ORDER MADE IN
H.C.P (MD) No.1281 of 2014

30.03.2015