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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION (MD) No.1375 of 2014

S.Vadivu

.. Petitioner

Vs.

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.

2.The District Collector and
District Magistrate,
Office of the District Collector and
District Magistrate,
Tirunelveli District.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli 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 entire records connected with the detention order passed by the second respondent in M.H.S.Confdl.No.87/2014, dated 15.11.2014 and quash the same and direct the respondents to produce the body or person of the detenu by name Suresh @ Bombay Suresh, Son of Rajendran, aged about 24 years, now detained in Palayamkottai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

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 M.H.S.Confdl.No.87/2014, dated 15.11.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Suresh @ Bombay Suresh, Son of Rajendran and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Thalaiyuthu 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 case:

Crime No.204 of 2014 Thalaiyuthu Police Station
registered under Sections 147, 148, 294(b), 325, 323 and 506
(i) of the Indian Penal Code.



3. Further it is stated in the affidavit that one S.K.Sundram as complainant has given a complaint to the Inspector of Police, Thalaisyuthu Police Station against the detenu and the same has been registered in Crime No.355 of 2014 under Sections 147, 148, 294(b), 302, 506(ii) and 109 of the Indian Penal Code altered into Sections 147, 148, 294(b), 302, 506(ii), 109 and 120(b) 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 grandmother 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 three 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 need not 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, six clear working days are available and in between Column Nos.12 and 13, five clear working days are available. With regard to second representation in between Column Nos.7 to 9, five clear working days are available and in between Column Nos.12 and 13, thirty three clear working days are available and with regard to third representation in between Column Nos.7 to 9, five clear working days are available and in between Column Nos.12 and 13, thirty three 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 detention order dated 15.11.2014 passed in M.H.S.Confdl.No.87/2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Suresh @ Bombay Suresh,



Son of Rajendran at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(T&P)

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/TRUE COPY/

Sub Assistant Registrar

To

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

2.The District Collector and
District Magistrate,
Office of the District Collector and
District Magistrate,
Tirunelveli District.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

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

5.The Joint Secretary to Govt.,
Public (Law & Order),
Fort St.George, Chennai - 9.

+1cc to Mr.R.Alagumani,Advocate, SR.No.14419

ORDER MADE IN
H.C.P (MD) No.1375 of 2014
23.03.2015

ps

PA/24.03.2015/3P/7C