



WEB COPY

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.1389 of 2014

M.Nandhini

..Petitioner

Vs.

1.The District Collector and
District Magistrate,
Theni,
Theni District.

2.The Government of Tamil Nadu,
Rep. by its Secretary,
Home, Prohibition and Excise (XIV),
Fort St.George,
Chennai - 9.

..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 records dated 12.11.2014 made in Detention Order No.07/2014/C3 on the file of the first respondent and quash the same and consequently, direct the first respondent to produce the petitioner's husband Murugan @ Polimurugan as his body before this Court and set him at liberty and pass such further or other orders.

For Petitioner : Mr.B.Pandiyarajan

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.07/2014/C3, dated 12.11.2014 by the detaining authority, who has been arrayed as first respondent herein, against the detenu by name Murugan @ Polimurugan, Son of Balusamy Thevar and quash the same and thereby set him at liberty forthwith.

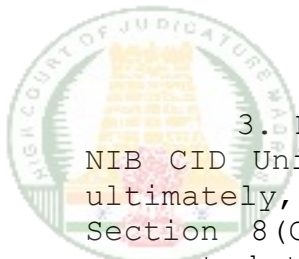
2. The Inspector of Police, NIB CID, Theni as sponsoring authority has submitted an affidavit to the detaining authority wherein it is stated to the effect that the detenu has involved in the following adverse cases:

(i) Crime No.61 of 2013 NIB CID, Theni registered under Section 8(C) read with 20(b)(ii)(A) of NDPS Act.

(ii) Crime No.153 of 2013 NIB CID, Theni registered under Section 8(C) read with 20(b)(ii)(A) of NDPS Act.

(iii) Crime No.9 of 2014 NIB CID, Theni registered

under Section 8(C) read with 20(b)(ii) and (C) of NDPS Act.



3. Further it is stated in the affidavit that on 14.09.2014, Theni NIB CID Unit has found the detenu in possession of 3 kgs of Ganja and ultimately, a case has been registered in Crime No.139 of 2014 under Section 8(C) read with 20(b)(ii)(B) of NDPS Act, 1985 and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

4. The detaining authority, viz., the first respondent herein, 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 'Drug Offender' 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 wife 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 is duly disposed of without delay and therefore, the detention order in question does not require any interference.

8. 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 eight clear working days are available and in between column Nos.12 and 13 four 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 representation 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 12.11.2014 in Detention Order No.07/2014/C3 passed by the first respondent/detaining authority is quashed and consequently, the detenu Murugan @ Polimurugan, Son of Balusamy Thevar is ordered to be set at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1. THE DISTRICT COLLECTOR AND DISTRICT MAGISTRATE, THENI, THENI DISTRICT.

2. THE SECRETARY, GOVERNMENT OF TAMILNADU
<https://hcservices.ecourts.gov.in/hcservices/>
(HOME), PROHIBITION AND EXCISE (XIV),
FORT. ST. GEORGE, CHENNAI - 9.



3. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
(IN DUPLICATE TO COMMUNICATE THE DETENUE)

4. THE DIRECTOR GENERAL OF POLICE,
CHENNAI-4.

5. THE JOINT SECRETARY TO GOVT., OF TAMILNADU,
PUBLIC (LAW & ORDER), FORT ST.GEROGE, CHENNAI-9.

6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

H.C.P (MD) No.1389 of 2014
23.03.2015

ps

pbk 24/03/2015 ::3p-8c: