



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION (MD) No.1468 of 2014

Valarmathi

.. Petitioner

Vs.

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

2.The Commissioner of Police,
Madurai District,
Madurai.

.. 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 records of the second respondent in detention order in No.77/BCDFGISSSV/2014, dated 27.11.2014 and set aside the order of detention passed therein dated 27.11.2014 and direct the respondents to produce the detenu by name Senthil @ Senthilkumar, aged 31 years, Son of Nagamalayan before this Court, now detained at Central Prison, Madurai and set him at liberty forthwith and pass such further or other orders.

For Petitioner : Mr.J.William Christopher

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 No.77/BCDFGISSSV/2014, dated 27.11.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Senthil @ Senthilkumar, Son of Nagamalayan and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, D1 Tallakulam 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.938 of 2014 D1 Tallakulam Police Station
registered under Sections 147, 148, 294(b) and 506(ii) of the
Indian Penal Code.



3. Further it is stated in the affidavit that one Chandran as complainant has lodged a complaint to the Inspector of Police, D1 Tallakulam Police Station against the detenu and the same has been registered in Crime No.943 of 2014 under Sections 147, 148, 307 and 302 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 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 four 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, seven clear working days are available and in between Column Nos.12 and 13, three clear working days are available. With regard to second representation in between Column Nos.12 and 13, three clear working days are available. With regard to third representation in between Column Nos.12 and 13, fourteen clear working days are available and with regard to fourth representation in between Column Nos.12 and 13, fourteen 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 passed in No.77/BCDFGISSSV/2014, dated 27.11.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Senthil @ Senthilkumar, Son of Nagamalayan at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/

Assistant Registrar(CO)



To

- 1.The Secretary to the Government,
Government of Tamil Nadu,
Home, Prohibition and Excise IX Department,
Secretariat,
Fort St. George,
Chennai - 600 009.
- 2.The Commissioner of Police,
Madurai District,
Madurai.
- 3.The Superintendent,
Central Prison,
Madurai.(in duplicate to communicate to the detenu)
- 4.The Joint Secretary to Government of Tamilnadu,
Public(Law & Order),
Fort St.George, Chennai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.J.William Christopher, Advocate, SR.No.14728

ORDER MADE IN
H.C.P (MD) No.1468 of 2014
25.03.2015

ps

PA/26.03.2015/3P/8C