



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 06.04.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P. (MD) No.1494 of 2014

Bose

.. Petitioner

Vs.

1.The State of Tamil Nadu,
rep.by Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.

2.The District Collector & District Magistrate,
Theni District, Theni.

3.The Inspector of Police,
Bodi Town Police Station, Theni District.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for entire records pertaining to the detention order passed by the 2nd respondent in Detention Order No.08/2014 dated 27.11.2014 and quash the same and direct the respondents to produce the body of the detenu namely Mavuthu Karuppiah @ Venkatesh S/o.Bose aged about 28 years, now detained in Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.S.Deenadhayalan

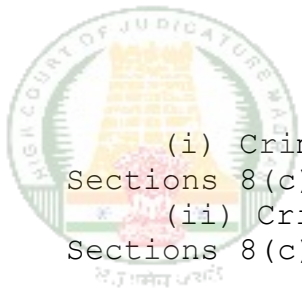
For Respondents : Mr.C.Ramesh Addl.Public Prosecutor

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 the detention order passed in Detention Order No.08/2014 dated 27.11.2014 against the detenu by name Mavuthu Karuppiah @ Venkatesh S/o.Bose and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Bodi Town 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.301 of 2014 - Bodi Town Police Station, registered under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act.
- (ii) Crime No.366 of 2014 - Bodi Town Police Station, registered under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act.

Further it is stated in the affidavit that on 15.11.2014, the Sub Inspector of Police, Bodi Town Police Station has conducted a raid and found the detenu in possession of ganja and consequently a case has been registered in Crime No.539 of 2014 under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

3. 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 drug 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 father of the detenu as petitioner.

4. On the side of the respondents a 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.

5. 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.

6. The learned Additional Public Prosecutor has contended that the representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the detention order in question is not liable to be quashed.

7. On the side of the respondents, a proforma has been submitted, wherein it has been clearly stated to the effect that in between column Nos.7 to 9, 11 clear working days are available and in between column Nos.9 and 10, 3 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 his rights guaranteed under Article 22(5) of the Constitution of India and therefore, the detention order in question is liable to be quashed.

8. In fine, this Habeas Corpus Petition is allowed and the detention order dated 27.11.2014 passed in Detention Order No.08/2014 by the detaining authority/second respondent herein is quashed and the detenu by name Mavuthu Karuppiyah @ Venkatesh is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/
Assistant Registrar

/True copy/



To

- 1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.
- 2.The District Collector & District Magistrate,
Theni District, Theni.
- 3.The Inspector of Police,
Bodi Town Police Station,
Theni District.
4. The Superintendent, Central Prison, Madurai.
5. The Joint Secretary to the Government,
Public (Law & Order) Fort St. George, Chennai - 600 009.
- 6.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S. S.Deenadhayalan, Advocate in SR.No. 16842

TS/07.04.2015/3P-8C

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