



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION(MD)No.1508 of 2014

Selvamani

..Petitioner

Vs.

1.The State of Tamil Nadu,  
Rep. by its Secretary to Government,  
Department of Prohibition and Excise (Home),  
Fort St. George,  
Chennai - 600 009.

2.The District Collector and District Magistrate,  
Nagapattinam District,  
Nagapattinam.

3.The Inspector of Police,  
Thirukkuvalai Police Station,  
Nagapattinam District.

4.The Superintendent of 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 the records in respect of C.O.C.No.70/2014, dated 11.12.2014 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the detenu Palaniyappan, Son of Samburani @ Ramachandran, aged about 28 years, now confined at Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.Ilayaraja Kandasamy

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.70/2014, dated 11.12.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Palaniyappan, Son of Samburani @ Ramachandran and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Thirukkuvalai Police Station as sponsoring authority has submitted an affidavit to the detaining authority in which it is stated that the detenu has involved in the following adverse cases:

(i) Crime No.177 of 2013 Thirukkuvalai Police Station



registered under Section 4(1)(aaa) read with 4(1-A) TNP Act, 1937 altered into Section 4(1)(aaa) TNP Act, 1937.

(ii) Crime No.216 of 2013 Thirukkuvalai Police Station registered under Section 4(1)(aaa) TNP Act, 1937.

(iii) Crime No.08 of 2014 Thirukkuvalai Police Station registered under Section 4(1)(aaa) TNP Act, 1937.

(iv) Crime No.146 of 2014 Thirukkuvalai Police Station registered under Section 4(1)(aaa) read with 4(1-A) TNP Act, 1937.

3. Further it is stated in the affidavit that on 25.11.2014, the Inspector of Police, Tirukkuvalai Police Station has found the detenu in possession of some liquor bottles without licence and consequently a case has been registered in Crime No.175 of 2014 under Sections 4(1)(i), 4(1)(aaa) 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 mother 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 is 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 representation submitted on the side of the detenu has been 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 in between Column Nos.7 to 9, ten 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 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.70/2014, dated 11.12.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Palaniyappan, Son of Samburani @ Ramachandran at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(Crl.side)

/True copy/

Sub Assistant Registrar



To

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

2.The District Collector and District Magistrate,  
Nagapattinam District,  
Nagapattinam.

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

4.The Inspector of Police,  
Thirukkuvalai Police Station,  
Nagapattinam District.

5.The Superintendent of Prison,  
Central Prison,  
Tiruchirappalli.

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

H.C.P (MD) No.1508 of 2014  
26.03.2015

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