



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
and

THE HONOURABLE MR.JUSTICE V.S.RAVI

HABEAS CORPUS PETITION (MD) No.1513 of 2014

Rubesdeen Bawa

.. Petitioner

Vs.

1.The Secretary to Government,
Public (Law and Order-F) Department,
State of Tamil Nadu,
Secretariat, Chennai - 600 009.

2.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City, Madurai.

3.The Secretary to the Government of India,
Ministry of Home Affairs,
Department of Internal Security,
North Block, New Delhi - 110 001.

4.The Superintendent of Prison,
Madurai Central Prison,
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 entire records, connected with the detention order of the respondent No.2 in No.05/NSA/2014, dated 11.12.2014 and quash the same and direct the respondents to produce the detenu by name Rubesdeen Bawa, Son of Gaja Nizam Bugardeen, aged about 38 years now detained in Madurai Central Prison before this Court and set him at liberty forthwith and pass such further or other orders.

For Petitioner : Mr.R.Alagumani

For RR 1, 2 & 4

: Mr.K.Chellapandian

Additional Advocate General

for Mr.C.Ramesh

Additional Public Prosecutor

For R - 3

: Mr.D.Saravanan

Central Government Senior

Standing Counsel

ORDER

(Order of the Court was made by A.SELVAM, J)



against the detenu by name Rubesdeen Bawa, Son of Gaja Nizam Bugardeen and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, E3 Anna Nagar Police Station as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that on 10.11.2014 one Veereswaran, Village Administrative Officer, Sathamangalam Village has given a complaint in E3 Anna Nagar Police Station wherein it is stated that he and his henchmen have found country made bombs and consequently, a case has been registered in Crime No.1490 of 2014 under Section 4 of Explosive Substances Act, 1908 against the detenu and others and ultimately requested the detaining authority to invoke National Security Act, 1980 (Central Act 65 of 1980) against the detenu.

3. The detaining authority, after perusing 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 detained him under the National Security Act, 1980 (Central Act 65 of 1980) 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 detenu himself as petitioner.

4. On the side of the respondents 1, 2 and 4 a detailed counter has been filed, wherein it is stated that the detaining authority, after considering the habitual nature of detenu, has rightly detained him under the National Security Act, 1980 (Central Act 65 of 1980) and further, the representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the detention order in question is perfectly correct and the same does not call for any interference.

5. In the counter filed on the side of the third respondent it is specifically averred that a report envisaged under Section 3(5) of the National Security Act, 1980 (Central Act 65 of 1980) has been made to the Central Government by the State Government on 22.12.2014 and the same has been reached on 08.01.2015 and no delay has occurred on the part of the Central Government in disposing of the representation and therefore, the detention order in question is not liable to be quashed.

6. The learned counsel appearing for the petitioner has sparingly contended that even though a report under Section 3(5) of the National Security Act, 1980 (Central Act 65 of 1980) has been sent to the Central Government on 22.12.2014, as per averments made in paragraph No.5 of the counter, it has reached the Central Government on 08.01.2015 and no explanation has been given in respect of delay which occurred during interregnum period and therefore, the detention order in question is liable to be quashed.

7. Mr.K.Chellapandian, learned Additional Advocate General appearing for the respondents 1, 2 and 4 as well as Mr.D.Saravanan, Central Government Senior Standing Counsel appearing for the third respondent have clearly accepted that as per Section 3(5) of the National Security Act, 1980 (Central Act 65 of 1980), a report has to be sent within a period of seven days either from the date of detention order or from the date of approval, but in the instant



case, the same has been sent to the Central Government on 22.12.2014, reached the Central Government only on 08.01.2015.

8. In paragraph No.5 of the counter it has been clearly stated to the effect that a report envisaged under Section 3(5) of the National Security Act, 1980 (Central Act 65 of 1980) has been sent to the Central Government on 22.12.2014, but reached the Central Government only on 08.01.2015 and no explanation has been given by the respondents with regard to such delay and that itself would affect the rights of the detenu 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.05/NSA/2014, dated 11.12.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Rubesdeen Bawa, Son of Gaja Nizam Bugardeen at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(T&P)

\\True copy\\

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Public (Law and Order-F) Department,
State of Tamil Nadu, Secretariat, Chennai - 600 009.
- 2.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City, Madurai.
- 3.The Secretary to the Government of India,
Ministry of Home Affairs,
Department of Internal Security, North Block,
New Delhi - 110 001.
- 4.The Superintendent of Prison,
Madurai Central Prison, Madurai.
5. The Joint Secretary to Government,
Public (Law and Order), Fort St.George, Chennai.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/s.R.Alagumani, Advocate Sr.No.33176
+1cc to M/s.D.Saravanan, Advocate Sr.No.33126

ps