



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

HABEAS CORPUS PETITION(MD)No.1518 of 2014

Augustine Eben Inabraaj @ Austin Eben Inbaraj
@ Inbaraj @ Babu @ Binu,
S/o.Thankaraj,
Panthivilai,
Fletcher Street, Marthandam,
Naloor Village, Vilavancode Taluk,
Kanniyakumari District.
(Now confined at Palayamkottai
Central Prison) .. Petitioner

Vs.

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

2.The District Collector and
District Magistrate,
office of the District Collector and
District Magistrate,
Nagercoil, Kanniyakumari District.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

.. 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 P.D.No.35/2014, dated 11.12.2014 and quash the same and direct the respondents to produce the detenu namely Augustine Eben Inabraaj @ Austin Eben Inbaraj @ Inbaraj @ Babu @ Binu, Son of Thankaraj, aged about 39 years, detained in Palayamkottai Central Prison before this Court and set him at liberty and pass such further or other orders.

For Petitioner : Mr.B.Dhanasekaran

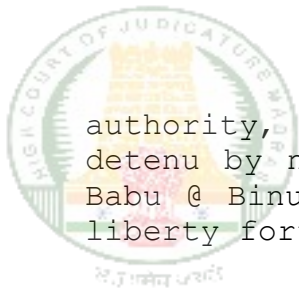
For Respondents : Mr.C.Ramesh

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 P.D.No.35/2014, dated 11.12.2014 by the detaining



authority, who has been arrayed as second respondent herein against the detenu by name Augustine Eben Inabraj @ Austin Eben Inbaraj @ Inbaraj @ Babu @ Binu, Son of Thankaraj and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Marthandam 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.383 of 2013 Kaliyakkavilai Police Station registered under Sections 294(b), 353, 307 and 379 of the Indian Penal Code and also under Section 4(1-A) read with Section 21(1) of Tamil Nadu Mines and Minerals (Development and Regulation) Act, 1957 and also under Section 36(A) of Tamil Nadu Minor Minerals Concession Rule, 1959.

(ii) Crime No.654 of 2013 Marthandam Police Station registered under Section 379 of the Indian Penal Code.

(iii) Crime No.728 of 2013 Marthandam Police Station registered under Sections 307 and 379 of the Indian Penal Code and also under Section 4(1-A) read with Section 21(1) of Tamil Nadu Mines and Minerals (Development and Regulation) Act, 1957 and also under Section 36(A) of Tamil Nadu Minor Minerals Concession Rule, 1959.

(iv) Crime No.803 of 2013 Marthandam Police Station registered under Section 392 read with 397 of the Indian Penal Code.

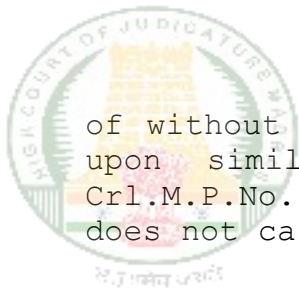
3. Further it is stated in the affidavit that on 09.11.2014 at about 14.00 hours, one Senthilmurugan as complainant has given a complaint in Marthandam Police Station against the detenu and the same has been registered in Crime No.741 of 2014 under Sections 294(b), 392 and 506(ii) of the Indian Penal 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 detenu himself 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 the detaining authority has erroneously relied upon bail order passed in Cr.M.P.No.3084 of 2012 and in fact, the case mentioned therein is not similar to that of the facts of the present case and therefore, the detaining authority has not applied his mind properly. Further, on the side of the detenu three representations have been submitted and the same have not been disposed of so far. Under the said circumstances, the detention order in question is liable to be quashed.

7. The learned Additional Public Prosecutor has contended that all the representations submitted on the side of the detenu are duly disposed



of without delay and further, the detaining authority has rightly relied upon similar case particulars mentioned in the order passed in Crl.M.P.No.3084 of 2012 and therefore the detention order in question does not call for any interference.

8. In fact, this court has perused the order passed in Crl.M.P.No.3084 of 2012 and ultimately found that the concerned authority has granted anticipatory bail. Further, in the order passed in Crl.M.P.No.3084 of 2012, it has been mentioned to the effect that co-accused has already been released on bail.

9. In the instant case, as pointed out earlier, against the detenu four adverse cases are pending. Since four adverse cases are pending against the detenu, the case mentioned in Crl.M.P.No.3084 of 2012 cannot be considered as similar. Further, there is no material on the part of the respondents for coming to a conclusion that three representations submitted on the side of the detenu are duly disposed of without delay. Therefore, from the cumulative contentions urged on the side of the petitioner/detenu, the detention order in question is liable to be quashed.

10. In fine, this Habeas Corpus Petition is allowed and the detention order passed in P.D.No.35/2014, dated 11.12.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Augustine Eben Inabraj @ Austin Eben Inbaraj @ Inbaraj @ Babu @ Binu, Son of Thankaraj 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

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To

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

2.The District Collector and
District Magistrate,
office of the District Collector and
District Magistrate,
Nagercoil, Kanniyakumari District.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.



4.The Joint secretary
Public (Law & Order) Government of
Tamil Nadu, Fort St., George Chennai-600 009.

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

+1cc to MR. R.ALAGUMANI,ADVOCATE IN SR NO. 20409

ORDER MADE IN
H.C.P (MD) No.1518 of 2014
20.04.2015

rg.22.04.2015 4p/7c.