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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 21.04.2015

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

H.C.P.(MD)No.1520 of 2014

Sasikumar @ Sasi .. Petitioner

Vs.

1.The Principal Secretary to Government,
Home, Prohibition & Excise(IX) Department,
Secretariat, Chennai - 9.

2.The District Collector & District Magistrate,
O/o. District Collector & District Magistrate,
Tirunelveli District, Tirunelveli.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli 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 impugned detention order passed by the 2nd respondent in M.H.S.Confdl.No.90/2014 dated 07.12.2014 and quash the same and direct the respondents to produce the detenu namely Sasikumar @ Sasi S/o.Madasamy Thevar, aged about 33 years, now detained in Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.B.Dhanasekaran
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 M.H.S.Confdl.No.90/2014 dated 07.12.2014 by the detaining authority who has been shown as second respondent herein against the detenu by name Sasikumar @ Sasi, S/o.Madasamy and quash the same and thereby set him at liberty forthwith.

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2. The Inspector of Police, Veerakeralampudur 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.57 of 2013, Thevarkulam Police Station, registered under Sections 147, 148, 341, 302 506(ii) and 120(b) of the Indian Penal Code.

(ii)Crime No.196 of 2014, Veerakeralampudur Police Station, registered under Sections 341, 294(b), 323 and 506(ii) of the Indian Penal Code.

Further it is stated in the affidavit that on 04.11.2014 one Murugesan as complainant has given a complaint against the detenu in Veerakeralampudur Police station and the same has been registered in Crime No.213 of 2014 under Sections 294(b), 387 and 506(ii) of the Indian Penal Code and subsequently altered to Sections 294(b), 392 r/w 397 of the Indian Penal Code 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 habitual offender and thereby 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.

4. On the side of the respondents a detailed counter has been filed, wherein it has been contended *inter alia* 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 three representations are submitted and the same have 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 all the representations submitted on the side of the detenu are duly disposed of without delay and therefore, the detention order in question does no call for any interference.

7. 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 and 9, 7 clear working days are available and in between column Nos.12 and 13, 4

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clear working days are available; with regard to second representation in between column Nos.12 and 13, 7 clear working days are available and with regard to third representation in between column Nos.7 and 9, 6 clear working days are available and in between column Nos.12 and 13, 18 clear working days are available no explanation has been given on the side of the respondents with regard to huge delay in disposing of the representation and that itself would affect 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.

8. In fine, this Habeas Corpus Petition is allowed and the detention order dated 07.12.2014 passed in M.H.S.Confdl.No.90/2014 by the detaining authority/second respondent herein is quashed and the detenu by name Sasikumar @ Sasi is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(Writs)

/True Copy/

Sub-Assistant Registrar

To

1.The Principal Secretary to Government,
Home, Prohibition & Excise (IX)Department,
Secretariat, Chennai - 9.

2.The District Collector & District Magistrate,
O/o. District Collector & District Magistrate,
Tirunelveli District, Tirunelveli.

3.The Superintendent of Prison, Palayamkottai Central Prison,
Tirunelveli District.
[in duplicatefor communication to the detenu]

4.The Joint Secretary to Government of Tamilnadu,
Public (Law & order) Department, Fort St.George, Chennai-9.

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

+1cc to Mr.B.Dhanasekaran, Advocate, in SR. No.21583.

H.C.P.(MD)No.1520 of 2014
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