



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION (MD) No.1525 of 2014

Manjula

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By its Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 9.

2.The District Collector and
District Magistrate,
Office of the District Collector and
District Magistrate,
Ariyalur District,
Ariyalur.

3.The Superintendent of Central 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 entire records in detention order passed in Cr.M.P.No.16/2014, dated 29.11.2014 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's husband namely Tamilvanan, Son of Subramanian, male, aged 31 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.K.A.S.Prabhu

For Respondents : Mr.A.Ramar,
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 Cr.M.P.No.16/2014, dated 29.11.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Tamilvanan, Son of Subramanian and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Thirumanur Police Station as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that on 22.11.2014, one Parthiban, Village Administrative Officer, Elakkurichi Village has given a complaint to the Inspector of Police, Thirumanur Police Station against the detenu and the same has been registered in Crime No.207 of 2014 under Section 21(1)(5) of the Mines and Minerals (Development and Regulation) Act, 1957 read with Section 36(A) of the Tamil Nadu Mines and Minerals Concession Rules, 1959 read with Sections 294(b), 353, 379 and 307 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 'Sand Offender' and ultimately branded him under the said caption 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 wife of the detenu as petitioner.

4. 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.

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 considered and disposed of without delay and therefore the detention order in question does not call for any interference.

7. 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, eleven clear working days are available and in



between Column Nos.12 and 13, eighteen 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 the 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 passed in Cr.M.P.No.16/2014, dated 29.11.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Tamilvanan, Son of Subramanian 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 the Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Ariyalur District, Ariyalur.
- 3.The Superintendent of Central Prison,
Central Prison, Tiruchirappalli.
- 4.The Joint Secretary to Government of Tamilnadu,
Public (Law & order) Department, Fort St.George, Chennai-9.
- 5.The Inspector of Police Station, Thirumanur Police Station.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.K.A.S.Prabhu, Advocate, in SR. No.16054.

ORDER MADE IN
H.C.P (MD) No.1525 of 2014
31.03.2015

ps

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