



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 30.04.2015

Coram

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

H.C.P. (MD) No.1536 of 2014

A.Meenakshi .. Petitioner
Vs.

1.State of Tamilnadu

The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.

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

3.The Superintendent of Prison,
Central Prison,
Tiruchirapalli.

.. 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 detention order passed by the 2nd respondent in C.O.C.No.76 of 2014 dated 22.12.2014 and quash the same and direct the respondents to produce the detenu namely Ananth S/o.Mookaiya, male aged about 36 years now detained in Central Prison, Tiruchirapalli before this Court and set him at liberty.

For Petitioner : Mr.K.A.S.Prabhu
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 C.O.C.No.76 of 2014 dated 22.12.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Ananth S/o.Mookaiya and quash the same and thereby set him at liberty forthwith.



authority, wherein it is stated that the detenu has involved in the following adverse cases:

(i) Crime No.320 of 2014, Velippalayam Police Station registered under Sections 8(c) r/w 20(1)(b) NDPS Act, 1985.

(ii) Crime No.488 of 2014, Velippalayam Police Station registered under Sections 22(c) NDPS Act, 1985.

Further it is stated in the affidavit that on 18.11.2014 on the basis of information, the Inspector of Police and others have found the detenu in possession of ganja without any licence and consequently a case has been registered in Crime No.493 of 2014 under Sections 8(c) r/w 20(b)(ii)(c) NDPS Act 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 ultimately branded him as 'drug offender' 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 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 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 to the effect that in between column Nos.7 to 9, 8 clear working days are available and in between column Nos.12 and 13, 17 clear working days are available and no explanation has been given on the side of the respondents with regard to such 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.

8. In fine, this Habeas Corpus Petition is allowed and the detention order dated 22.12.2014 passed in C.O.C.No.76 of 2014 by the detaining authority/second respondent herein is quashed and the detenu by name Ananth is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(writ)



To

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

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

3.The Superintendent of Prison,
Central Prison,
Tiruchirapalli.(in duplicate for communication to the detenue)

4.The joint Secretary to Government,
Public (law and order)
Fort. Saint George, Chennai-9.

5.The Inspector of Police,
Velippalayam Police Station,
Velippalayam.

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

+1cc to Mr.K.A.S.Prabhu, Advocate SR.No. 23885

sm:04.05.2015:3P/8C

mj

H.C.P. (MD) No.1536 of 2014
30.04.2015