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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.1550 of 2014

Sathyabama

.. Petitioner

Vs.

1.The Principal Secretary to the Government,
Home, Prohibition and Excise (IX) Department,
Secretariat,
Chennai - 600 009.

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

3.The Superintendent of Prison,
Trichy Central Prison,
Tiruchirappalli 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 second respondent in Cr.M.P.No.12/2014, dated 02.12.2014 and quash the same and direct the respondents to produce the detenu namely A.S.Kannan, Son of Sangapillai, aged about 31 years detained in Trichy Central Prison before this Court and set him at liberty and pass such further or other orders.

For Petitioner : Mr.R.Alagumani

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.12/2014, dated 02.12.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name A.S.Kannan, Son of Sangapillai and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Lalpettai Police Station as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that a case has been registered against the detenu in Crime No.305 of 2014 under Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 read with 379 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 mother 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 five representations have been 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 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 with regard to first representation in between Column Nos.7 to 9, six clear working days are available and in between Column Nos.12 and 13, two clear working days are available. With regard to second representation in between Column Nos.12 and 13, two clear working days are available. With regard to third representation in between Column Nos.7 to 9, eight clear working days are available. With regard to fourth representation in between Column Nos.7 to 9, five clear working days are available and in between Column Nos.12 and 13, six clear working days are available and with regard to fifth representation in between Column Nos.7 to 9, six clear working days are available and in between Column Nos.12 and 13, thirteen 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 representations 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.12/2014, dated 02.12.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., A.S.Kannan, Son of



Sangapillai at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(Crl.Side)

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TRUE COPY/

Sub Assistant Registrar

To

1.The Principal Secretary to the Government,
Home, Prohibition and Excise (IX) Department,
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Chennai - 600 009.

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

3.The Superintendent of Prison,
Trichy Central Prison,
Tiruchirappalli District.

4. The Joint Secretary to Govt.,
Public (Law & Order),
Fort St.George, Chennai - 9.

5.The Inspector of Police,
Lalpettai Police Station.

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

+1cc to Mr.R.Alagumani,Advocate, SR.No.16070

ORDER MADE IN
H.C.P (MD) No.1550 of 2014
31.03.2015

ps

PA/01.04.2015/3P/8C