



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.17 of 2015

Mageswari,
W/o.Balu @ Diesel Balu,
630, Public Office Road,
Anna Padipagam Lane,
Veipalayam,
Velipalayam Post,
Nagapattinam Taluk,
Nagapattinam District.

.. 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,
Nagapattinam District,
Nagapattinam.

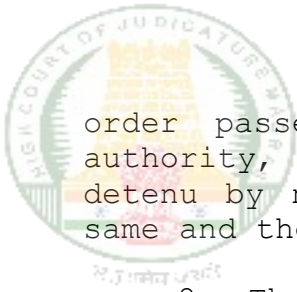
3.The Superintendent of Prison,
Trichy Central Prison,
Trichy District. .. Respondents

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 C.O.C.No.75/2014, dated 22.12.2014 and quash the same and direct the respondents to produce the detenu namely Balu @ Diesel Balu, Son of Mayandithevar, aged about 54 years detained in Trichy Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.C.Ramesh
Additional Public Prosecutor
ORDER

(Order of the Court was made by **A.SELVAM, J**)



order passed in C.O.C.No.75/2014, dated 22.12.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Balu @ Diesel Balu, Son of Mayandithevar and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Nagapattinam Town 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.417 of 2013 Velippalayam Police Station registered under Section 8(c) read with 20(ii)(c) of NDPS Act, 1985.

(ii) Crime No.541 of 2013 Velippalayam Police Station registered under Section 8(c) read with 20(ii)(c) of NDPS Act, 1985.

(iii) Crime No.187 of 2014 Velippalayam Police Station registered under Section 22 (c) of NDPS Act, 1985.

(iv) Crime No.482 of 2014 Velippalayam Police Station registered under Section 8(c) read with 20(ii)(c) of NDPS Act, 1985.

3. Further it is stated in the affidavit that the Inspector of Police, Nagapattinam Town Police Station, who is in-charge of Velippalayam Police Station has conducted a raid and ultimately found that the detenu is in possession of Ganja without any permission and consequently, a case has been registered in Crime No.487 of 2014 under Section 8(c) read with 20(ii)(c) of NDPS Act, 1985 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 '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.

5. 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.

6. The learned counsel appearing for the petitioner has contended that on the side of the detenu, two 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.

7. The learned Additional Public Prosecutor has contended that the representations submitted on the side of the detenu are sent to the Government and therefore the detention order in question need not be quashed.

8. Even in the counter it has been clearly mentioned that the detenu has submitted two representations. With regard to second representation,



it is stated that the same has been received by the first respondent on 30.12.2014 and remarks have been called for on 27.01.2015. Since remarks have been called for on 27.01.2015, even though representation has been received on 30.12.2015, it is needless to say that there is a delay in calling for remarks and that itself would be sufficient for coming to a conclusion that the rights of the detenu guaranteed under Article 22(5) of the Constitution of India is quashed and therefore the detention order in question is liable to be quashed.

9. In fine, this Habeas Corpus Petition is allowed and the detention order passed in C.O.C.No.75/2014, dated 22.12.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Balu @ Diesel Balu, Son of Mayandithevar at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(AE)

\\True copy\\

Sub Assistant Registrar

To

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,
Nagapattinam District,Nagapattinam.

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

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

+1CC TO M/S.R.ALAGUMANI, ADVOCATE SR.NO.20182

ORDER MADE IN
H.C.P(MD)No.17 of 2015
20.04.2015

PS

NA/23/04/2015/P3/6C