



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

HABEAS CORPUS PETITION(MD)No.171 of 2015

Malarvizhi

.. Petitioner

Vs.

1.State of Tamil Nadu,
Rep. By the Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

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

3.The Superintendent,
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 connection with the detention order passed in C.O.C.No.9/2015, dated 31.01.2015 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 son namely Pandiyan, Son of Chokkai @ Chokalingam, aged about 32 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

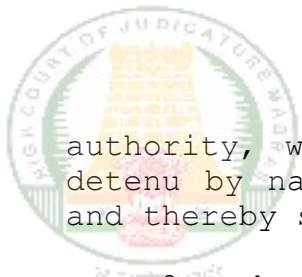
For Petitioner : Mr.K.A.S.Prabhu

For Respondents : Mr.C.Ramesh
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 C.O.C.No.9/2015, dated 31.01.2015 by the detaining



authority, who has been arrayed as second respondent herein against the detenu by name Pandiyan, Son of Chokkai @ Chokalingam and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Vettaikaraniruppu Police Station as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that on 29.11.2014, the Inspector of Police, Vettaikaraniruppu Police Station and others have found the detenu in possession of ganja without having licence and ultimately, a case has been registered in Crime No.127 of 2014 under Section 20(1)(b) of NDPS Act, 1985 and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

3. The detaining authority, after considering the nature of offence alleged to have been committed by the accused, has derived subjective satisfaction 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 mother of the detenu as petitioner.

4. On the side of the respondents counter has been filed, wherein it has been contended 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, sixteen clear working days are available and in between Column Nos.12 and 13, five 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 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 C.O.C.No.9/2015, dated 31.01.2015 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Pandiyan, Son of Chokkai @ Chokalingam at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar



To

1.The Secretary to Government of Tamil Nadu
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

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

3.The Superintendent,
Central Prison,
Tiruchirappalli. (in duplicate to communicate the detenu)

4. The Joint Secretary, Government of Tamil Nadu,
Public (Law & order) Department, Fort St. George, Chennai.

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

+1cc to M/S. K.A.S.Prabhu, Advocate in SR.No 32749

TS/23.06.2015/3P -8C

ORDER MADE IN
H.C.P (MD) No.171 of 2015

22.06.2015