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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 27.04.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P.(MD)No.177 of 2015

P.Anbalagan

.. Petitioner

Vs.

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

2.The District Collector & District Magistrate,
Theni District, Theni.

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

.. 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 No.05/2015/C3 dated 27.01.2015 and quash the same as illegal and direct the respondents to produce the detenu namely A.Gubendran, male, aged 29 years S/o.P.Anbalagan, now detained in Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.B.Pandiarajan

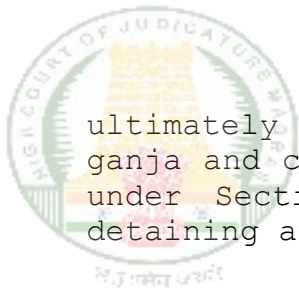
For Respondents : Mr.C.Ramesh
Addl.Public Prosecutor

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 No.05/2015/C3 dated 27.01.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Gubendran S/o.P.Anbalagan and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, NIB CID, Theni as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that on 03.10.2014 one Moovendan, Special Sub Inspector of Police, Theni, NIB CID has received a secret information with regard to smuggling of ganja and accordingly, a raid has been conducted and



ultimately found that the detenu is in possession of 25 kilograms of ganja and consequently a case has been registered in Crime No.158 of 2014 under Sections 20(b)(ii)(C) of 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 'drug 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 father 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 three 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 have 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 with regard to first representation in between column Nos.7 to 9, 7 clear working days are available and in between column Nos.12 and 13, 13 clear working days are available; with regard to second representation in between column Nos.7 to 9, 11 clear working days are available and in between column Nos.12 and 13, 4 clear working days are available and with regard to third representation in between column Nos.7 to 9, 3 clear working days are available and in between column Nos.12 and 13, 5 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 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 27.01.2015 passed in No.05/2015/C3 by the detaining authority/second respondent herein is quashed and the detenu by name A.Gubendran is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(RTI)

\\True copy\\



To

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

2.The District Collector & District Magistrate,
Theni District, Theni.

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

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

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

+1cc to MR.B.PANDIARAJAN, ADVOCATE SR.NO.23023

H.C.P. (MD) No.177 of 2015
27.04.2015

MJ

NA/29/04/2015/P3/7C