



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 08.06.2015

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

H.C.P.(MD)No.179 of 2015

C.Eswari

.. Petitioner

Vs.

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamilnadu,
Secretariat, Chennai - 600 009.

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 records of detention order No.06/2015 dated 04/02/2015 on the file of the 2nd respondent and quash the same as illegal and to direct the respondents to produce the detenu Chandran, male aged 38 years S/o.Veluthevar now detained at the Central Prison, Madurai before this Honourable Court and set him at liberty.

For Petitioner : Mr.B.Pandiyarajan

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.06/2015 dated 04/02/2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Chandran S/o.Veluthevar and quash the same and thereby set him at liberty



2. The Inspector of Police, Cumbum North 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.

WEB COPY

(i) Crime No.33 of 2008, Varusanadu Police Station, registered under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act.

(ii) Crime No.7 of 2012, Varusanadu Police Station, registered under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act.

(iii) Crime No.22 of 2012, Varusanadu Police Station, registered under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act.

(iv) Crime No.58 of 2013, Varusanadu Police Station, registered under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act.

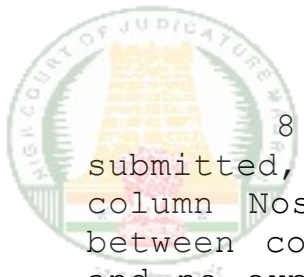
3. Further it is stated in the affidavit that on 06.01.2015, the concerned police party has conducted raid and found that the detenu is in possession of 1.500 kilograms of ganja without license and a case has been registered in Crime No.17 of 2015 under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act and 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 'professional 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 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.

7. The learned Additional Public Prosecutor has contended that the representation submitted on the side of the detenu has been disposed of without delay and therefore, the detention order in question does not call for any interference.



8. 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, 9 clear working days are available and in between column Nos.12 to 13, 6 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.

9. In fine, this Habeas Corpus Petition is allowed and the detention order dated 04.02.2015 passed in No.06/2015 by the detaining authority/second respondent herein is quashed and the detenu by name Chandran is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

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To

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamilnadu,Secretariat, Chennai - 600 009.
- 2.The Join Secretary, Public (Law & Order),
the State of Tamil Nadu, Secretariat, Chennai-9
- 3.The District Collector & District Magistrate,
Theni District, Theni.
- 4.The Superintendent of Police, Then District , Theni.
- 5.The Superintendent of Prison,
Central Prison, Madurai.
- 6.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to MR.B.PANDIA RAJAN,ADVOCATE IN SR NO.29507

H.C.P. (MD) No.179 of 2015

08.06.2015

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