



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 14.07.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P.(MD)No.201 of 2015

Selvaraj

.. Petitioner

Vs.

1.The Secretary to Government,
State of Tamilnadu,
Home, Prohibition and excise Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The District Collector & District Magistrate,
O/o. District Collector & District Magistrate
Sivagangai District.

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

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for for the entire records connected with the detention order of the Respondent No.2 in Cr.M.P.No.5/Goonda/2015 dated 13/02/2015 and Quash the same and direct the Respondents to produce the body or person of the detenu by name Arockiya John Bosco S/o.Selvaraj aged about 28 years, now detained at Trichirapalli Central Prison before this Court and set him at liberty forthwith.

For Petitioner	:	Mr.R.Alagumani
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 Cr.M.P.No.5/Goonda/2015 dated 13/02/2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Arockiya John Bosco S/o.Selvaraj and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Kallal Police Station has submitted an affidavit to the detaining authority, wherein it is stated that the detenu has involved in the following adverse cases.

<https://hcservices.ecourts.gov.in/hcservices/> No.94 of 2014, Kallal Police Station, registered under Sections 302 and 379 of the Indian Penal Code.



(ii) Crime No.176 of 2014, Kallal Police Station, registered under Section 394 of the Indian Penal Code.

(iii) Crime No.293 of 2014, Kallal Police Station, registered under Sections 454 and 380 of the Indian Penal Code.

(iv) Crime No.340 of 2014, Kallal Police Station, registered under Section 307 of the Indian Penal Code altered to section 302 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 19.09.2014, the defacto complainant by name Rani W/o.Rajamani has given a complaint against the detenu in Sivagangai Town Police Station and the same has been registered in Crime No. 667 of 2014 under Section 394 of the Indian Penal Code 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 'goonda' by way of passing the impugned detention order and in order to quash the same, the present Petition has been filed by the father of the detenu as petitioner.

5. Despite of repeated adjournments, the respondents have not filed counter. Under the said circumstances, this Habeas Corpus Petition is disposed of on merits on the basis of the available materials on record.

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 duly 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 with regard to first representation in between column Nos.7 to 9, 10 clear working days are available and in between column Nos.12 and 13, 4 clear working days are available and with regard to second representation in between column Nos.7 to 9, 17 clear working days are available and in between column Nos.12 and 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 representations and that itself would affect 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.

9. In fine, this Habeas Corpus Petition is allowed and the detention order dated 13.02.2015 passed in Cr.M.P.No.5/Goonda/2015 by the detaining authority/second respondent herein is quashed and the



detenu by name Arockiya John Bosco is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(Per.Admn.)

WEB COPY

/True copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
State of Tamilnadu,
Home, Prohibition and excise Department,
Secretariat, Fort St.George,
Chennai - 600 009.
- 2.The District Collector & District Magistrate,
O/o. District Collector & District Magistrate
Sivagangai District.
- 3.The Superintendent of Prison,
Trichirapalli Central Prison, Trichirapalli District.
4. The Joint Secretary to Govt.of Tamilnadu,
Public (Law & Order)Dept.,
Fort.St.George,Chennai - 9.
- 5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Alagumani,Advocate SR.No.38707

H.C.P. (MD)No.201 of 2015

14.07.2015

mj

PA/IV/SAR-I/16.07.2015/3P/7C