



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 30.04.2015

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

H.C.P.(MD)No.210 of 2015

Vellathai

.. Petitioner

Vs.

1.The Commissioner of Police,
Tirunelveli city, Tirunelveli

2.State of Tamilnadu
The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.

3.The State rep.by
Inspector of Police,
Pettai Police Station,
Pettai, Tirunelveli city, Tirunelveli

.. 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 first respondent in No.32/BCDFGISSSV/2014 dated 09.12.2014 and quash the same and direct the respondents to produce the detenu namely S.Kannan @ Ramadurai S/o.Sornavel, male aged about 19 years now detained in Central Prison,Borstal School, Pudukottai before this Court and set him at liberty.

For Petitioner : Mr.B.Prahalad Ravi

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.32/BCDFGISSSV/2014 dated 09.12.2014 by the <https://hcservices.ecourts.gov.in/hcservices/> detaining authority who has been arrayed as first respondent herein against the detenu by name S.Kannan @ Ramadurai S/o.Sornavel and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Pettai 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.75 of 2014, Pettai Police Station registered under Sections 341, 294(b), 302, 506(ii) of the Indian Penal Code altered to Sections 341, 294(b), 302, 506(ii) of the Indian Penal code r/w 120(b) of the Indian Penal Code.

Further it is stated in the affidavit that on 07.10.2014 one Murugan as defacto complainant has given a complaint in against the detenu in Pettai Police Station and the same has been registered in Crime No.634 of 2014 under Sections 294(b), 387, 307 and 506(ii) of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

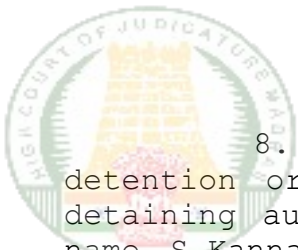
3. The detaining authority after considering the averments made in the affidavit and other connected documents has derived subjective satisfaction to the effect that the detenu is a 'habitual offender' and ultimately branded him as 'goonda' by way of passing the impugned detention order and in order to quash the same, the present Habeas Corpus Petition has been filed by the mother of the detenu as petitioner.

4. Despite of repeated adjournments, counter has not been filed on the side of the respondents. Under the said circumstances, the present petition is disposed of on the basis of the materials.

5. The learned counsel appearing for the petitioner has contended that on the side of the detenu five representations have been submitted and the same are not 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 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, 10 and in between column Nos.12 to 13, 12 clear working days are available; with regard to second representation in between column Nos.7 to 9, 10 clear working days are available and in between column Nos.12 and 13, 16 clear working days are available; with regard to third representation in between column Nos.7 to 9, 7 clear working days are available and in between column Nos.12 and 13, 16 clear working days are available; with regard to fourth representation in between column Nos.12 and 13, 16 clear working days are and with regard to second representation in between column Nos.7 to 9, 14 clear working days are available and in between column Nos.12 and 13, 6 clear working days are available available and no explanation has been given on the side of the respondents with regard to such inordinate 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 09.12.2014 passed in No.32/BCDFGISSSV/2014 by the detaining authority/first respondent herein is quashed and the detenu by name S.Kannan @ Ramadurai is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

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Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

- 1.The Commissioner of Police, Tirunelveli city, Tirunelveli.
2. The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.
- 3.The Inspector of Police,
Pettai Police Station,
Pettai, Tirunelveli city, Tirunelveli.
- 4.The Joint Secretary to the Government,
Public (Law & Oder), Fort St.George, Chennai - 9
5. The Superintendent Central Prison, Borstal School, Pudukkottai.
- 6.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.HALL MARK ASSOCIATES, , in SR. No. 24422

TS/05.05.2015/3P-8C

H.C.P. (MD) No.210 of 2015

30.04.2015