



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 03.06.2015

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

H.C.P.(MD)No.214 of 2015

A.Susiya .. 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 Detention Order No.10/2015/C3 dated 10.02.2015 and quash the same and direct the respondents to produce the body of the detenu namely Amaresan, male aged 37, S/o.Sadaya Thevar, now detained in Central Prison, Madurai before this Court and set him at liberty.

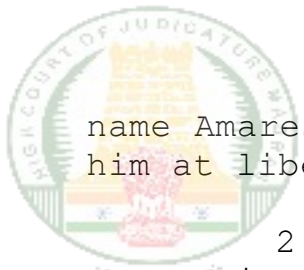
For Petitioner : Mr.B.Pandiyarajan

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 Detention Order No.10/2015/C3 dated 10.02.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by



name Amaresan S/o.Sadaya Thevar and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, NIB CID, Theni Unit as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that on 03.01.2015 one Alaguraj, Sub Inspector of Police, attached to NIB, Theni, received a secret information and accordingly police party have intercepted a vehicle bearing Registration No.TN-60-T-2201 and found 25 kgs of ganja without license and ultimately a case has been registered against the detenu in Crime No.1 of 2015 under Sections 8(c) r/w 20(b) (ii) (C) & 25 of NDPS Act. Under the said circumstances, it is requested the detaining authority to invoke Act 14 of 1982 against the detenu.

3. The detaining authority after considering the nature as well as gravity of offences alleged to have been committed by the detenu has 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.

4. On the side of the respondents a detailed 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 two 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 represented that all 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.

7. 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, 9 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, 11 clear working days are available and in between column Nos.12 and 13, 3 clear working days are available and no explanation has been given on the side of the respondents with regard to inordinate delay in disposing of the representations submitted on the side of the detenu and that ~~it does not~~ ^{it does not} 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 10.02.2015 passed in Detention Order No.10/2015/C3 by the detaining authority/second respondent herein is quashed and the detenu by name Amaresan is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(Writ)

/True copy/

Sub Assistant Registrar

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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.
(In duplicate for communicate to the detenu)
- 4.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to MR. B.PANDIYARAJAN, ADVOCATE IN SR NO. 27626

H.C.P. (MD) No.214 of 2015
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