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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 15.07.2015

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THE HONOURABLE MR. JUSTICE A.SELVAM

and

THE HONOURABLE MR. JUSTICE V.S.RAVI

H.C.P. (MD) No.222 of 2015

Sony Raja

.. Petitioner

Vs.

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

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

3.The Superintendent of Prison,
Madurai 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 the entire records connected with the detention order of the respondent No.2 in C.M.P.NO.10/Goonda/2015/M1 dated 13.02.2015 and quash the same and direct the respondents to produce the body or person of the detenu by name Sony Raja S/o.Manickampillai aged about 46 years now detained at Madurai Central Prison before this Honourable Court and set him at liberty.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.T.Mohan

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 C.M.P.NO.10/Goonda/2015/M1 dated 13.02.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Sony Raja S/o.Manickampillai and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Sendamangalam 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.

<https://hcservices.ecourts.gov.in/hcservices/>
(C) Civil No.324 of 2014, Sendamangalam Police Station,
registered under Sections 457 and 380 of the Indian Penal
Code.



(ii) Crime No.428 of 2014, Puduchatram Police Station, registered under Sections 457 and 380 of the Indian Penal Code.

(iii) Crime No.948 of 2014, C2, Subramaniyapuram Police Station, registered under Sections 457 and 380 of the Indian Penal Code.

(iv) Crime No.197 of 2014, Erode District, Modakurichi Police Station, registered under Sections 457 and 380 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 02.12.2014 one Periyasamy S/o.Arunachalam as defacto complainant has given a complaint against the detenu in Sendamaram Police station and the same has been registered in Crime No.393 of 2014 under Sections 392 r/w 506(ii) 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 Habeas Corpus Petition has been filed by the detenu himself 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/detenu has contended that on the side of the petitioner/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 petitioner/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, 19 clear working days are available and in between column Nos.12 and 13, 5 clear working days are available; with regard to second representation in between column Nos.7 to 9, 19 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 such huge delay in disposing of the representations and that itself would affect the rights of the petitioner/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 C.M.P.NO.10/Goonda/2015/M1 by the detaining authority/second respondent herein is quashed and the



petitioner/detenu is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(Per.Admn.)

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/True copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
State of Tamilnadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector & District Magistrate,
O/o.District Collector & District Magistrate,
Namakkal District.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai.
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.39250

H.C.P. (MD)No.222 of 2015
15.07.2015

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