



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 30.06.2015

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THE HONOURABLE MR. JUSTICE A.SELVAM

and

THE HONOURABLE MR. JUSTICE V.S.RAVI

H.C.P. (MD) No.249 of 2015

Amirthavalli

.. Petitioner/Wife of the Detenu

Vs.

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

2.The District Collector & District Magistrate,
Nagapattinam District,
Nagapattinam.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus praying to call for the records pertaining to the impugned detention order passed by the 2nd respondent made in his proceedings in C.O.C.No.14/2015 dated 16.02.2015 in detaining the detenu u/s 2 (b) of Tamil Nadu Act 14 of 1982 as a Boot-Legger and quash the same and direct the respondents to produce the detenu namely Elamparuthi, S/o.Pannerselvam, male, aged about 29 years, who is detained in Central Prison, Trichirapalli before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran

For Respondents : Mr.C.Ramesh

Addl.Public Prosecutor

ORDER

(Order of the Court was made by A.SELVAM, J.)

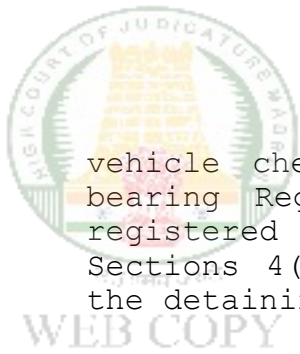
This Habeas Corpus Petition has been filed under Article 226 of the Constitution of India praying to call for records relating to the detention order passed in C.O.C.No.14/2015 dated 16.02.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Elamparuthi, S/o.Pannerselvam and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Sirkazhi 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 case.

Crime No.42 of 2015, Vaitheeswarankoil Police Station,
registered under Sections 4(1)(aaa)r/w 4(1-A) of TNP Act,
1937.

<https://hcservices.ecourts.gov.in/hcservices/>

3. Further it is stated in the affidavit that on 04.02.2015 the Inspector of Police, Sirkazhi Police Station and others have made



vehicle check up and ultimately found some liquor bottles in a van bearing Registration No.PY-01-U-8188 and thereafter a case has been registered against the detenu and others in Crime No.104 of 2015 under Sections 4(1)(aaa)r/w 4(1-A) of TNP Act, 1937 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 'boot legger' 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 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 in between column Nos.7 to 9, 12 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 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 16.02.2015 passed in C.O.C.No.14/2015 by the detaining authority/second respondent herein is quashed and the detenu by name Elamparuthi is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(Writs)

/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,
Nagapattinam District, Nagapattinam.

3.The Superintendent,
Central Prison,Trichirappalli.
(in duplicate for communication to detenu)

4. The Joint Secretary to Govt.of Tamilnadu,
Public (Law & Order)Dept.,
Fort.St.George,Chennai - 9.

5.The Inspector of Police,
Sirkazhi Police Station,Sirkazhi.

6.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.K.M.Karunakaran,Advocate SR.No.34823

H.C.P. (MD)No.249 of 2015
30.06.2015

mj
PA/SJW/01.07.2015/3P/8C