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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 17.06.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P. (MD) No.284 of 2015

S.D.Baby Shakila

.. Petitioner

Vs.

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

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

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai 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 the records relating to the detention order passed by the 2nd respondent in Detention Order No.06/2015 dated 26.02.2015 and quash the same and direct the respondents to produce the person or body of the detenu namely Arunkumar S/o.Victor Chandra Bose, aged 40 years, detained at Central Prison, Madurai 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 No.06/2015 dated 26.02.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Arunkumar S/o.Victor Chandra Bose and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Thadikombu 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.

(i) Crime No.47 of 2015, Thadikombu Police Station, registered under Sections 302 @ 302, 109 r/w 34 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 10.02.2015 the Sub Inspector of Police by name P.Balasubramanian and others have made vehicle check up and during the course of their action, it is found that the detenu is in possession of a pistol and also tried to attack the police. Under the said circumstances, the said Sub Inspector of Police has given a complaint in Thadikombu police station and the same has been registered in Crime No.48 of 2015 under Section 27 of the Indian Arms Act, 1959 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 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 three 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 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.

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, 8 clear working days are available and in between column Nos.12 and 13, 6 clear working days are available; with regard to second representation in between column Nos.7 to 9, 6 clear working days are available and in between column Nos.12 and 13, 9 clear working days are available and with regard to third representation, in between column Nos.7 to 9, 6 clear working days are available and in between column Nos.12 and 13, 9 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 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 26.02.2015 passed in Detention Order No.06/2015 by the detaining authority/second respondent herein is quashed and the detenu by name Arunkumar is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(Crl.Side)

/True copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Secretariat, Chennai - 600 009.
- 2.The District Collector & District Magistrate,
O/o.District Collector & District Magistrate,
Dindigul District, Dindigul.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District. (to be communicated to the detenu)
- 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.32062

H.C.P. (MD)No.284 of 2015
17.06.2015

mj

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