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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.07.2015

CORAM:

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

HABEAS CORPUS PETITION (MD) No.305 of 2015

Flowarance

.. Petitioner

Vs.

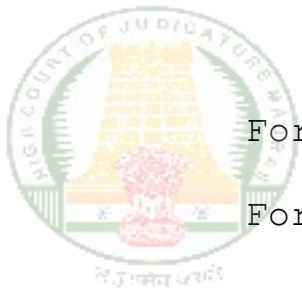
1.The Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Secretariat,
Fort St. George,
Chennai - 600 009.

2.The District Magistrate and
District Collector,
Office of the District Magistrate and
District Collector,
Madurai District.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

.. Respondents

Prayer:- Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus praying to call for the entire records, connected with the detention order of the respondent No.2 in C.M.P.No.03/2015 dated 19.02.2015 and quash the same and direct the respondents to produce the body or person of the detenu by name Praveen, Son of Prabakaran, aged about 30 years, now detained in Madurai Central Prison before this Court and set him at liberty forthwith and pass such further or other orders.



For Petitioner

: Mr.R.Alagumani

For Respondents : Mr.C.Ramesh

Additional Public Prosecutor

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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 detention order passed in C.M.P.No.03/2015 dated 19.02.2015 by the detaining authority, who has been arrayed as second respondent herein, against the detenu by name Praveen, Son of Prabakaran and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Prohibition Enforcement Wing, Thirumangalam 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.135 of 2010 Thoothukudi Prohibition Enforcement Wing, Thoothukudi District registered under Sections 4(1)(aaa), 4(1)(A) of TNP Act and also under Sections 6 and 7 of TNRS Rules, 2000.

(ii) Crime No.94 of 2015 Palani Prohibition Enforcement Wing, Dindigul District registered under Sections 4(1)(aaa), 4(1)(A) of TNP Act read with Sections 6, 7 and 11 of TNRS Rules and also under Sections 420 and 328 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 29.01.2015 the Inspector of Police, Thirumangalam Prohibition Enforcement Wing and other officials have made vehicle check up and ultimately found that the detenu is found in possession of illicit arrack by using a vehicle bearing Registration No.TN-01-AL-8610 and consequently, a case has been registered against him in Crime No.101 of 2015 under Sections 4(1)(aaa), 4(1-A) of TNP Act read with Sections 6 and 7 of TNRS Rules 2000 - Transport and also under Sections 120(b), 465, 468 and 471 of the Indian Penal Code and ultimately requested the detaining authority to invoke Act, 14 of 1982 against the detenu.

<https://e-services.ecourts.gov.in/e-services/>

4. The detaining authority, after considering the fact 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.

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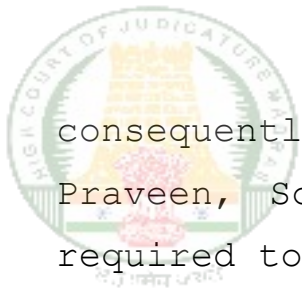
5. On the side of the respondents, counter has been filed wherein it has been contended to the effect that all the averments made in the petition are false and ultimately prayed to dismiss the same.

6. The learned counsel appearing for the petitioner has contended that on the side of the detenu three representations are submitted, but 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 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.

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, three clear working days are available and in between Column Nos.12 and 13, nine clear working days are available. With regard to second representation in between Column Nos.7 to 9, five clear working days are available and in between Column Nos.12 and 13, four clear working days are available and with regard to third representation in between Column Nos.7 to 9, nine clear working days are available and in between Column Nos.12 and 13, five 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 submitted on the side of the detenu and that itself would affect the rights of the 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 passed in C.M.P.No.03/2015 dated 19.02.2015 by the second respondent/detaining authority is quashed and



consequently the respondents are directed to set the detenu viz., Praveen, Son of Prabakaran at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

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SD
ASST REGISTRAR -RTI

SUB ASST REGISTRAR

ps

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The District Magistrate and
District Collector,
Office of the District Magistrate and
District Collector,
Madurai District.
- 3.The Joint Secretary, TO Government of Tamil Nadu,
Public (law and order)dept, Fort ST.George, Chennai.
- 4.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

1CC TO MR. R. ALAGUMANI ADV 42045

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ORDER MADE IN
H.C.P (MD) No.305 of 2015

27.07.2015