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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 29.04.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P.(MD)No.65 of 2015

B.Vinnarasi

..Petitioner

Vs.

1.State of Tamilnadu

The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.

2.The Commissioner of Police,
(Additional full charge)
Tirunelveli City,
Tirunelveli.

..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 second respondent in No.3/BCDFGISSV/2015 dated 03.01.2015 and quash the same and direct the respondents to produce the detenu namely V.Subramanian S/o.Velayutha Thevar, aged 50 years, the relating of the petitioner herein now detained in Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.K.Sudalayandi

For Respondents : Mr.T.Mohan

Addl.Public Prosecutor

ORDER

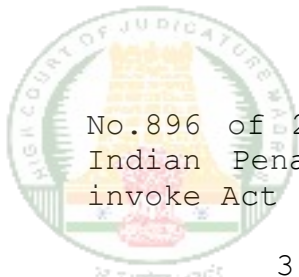
(Order of the Court was made by A.SELVAM, J.)

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 No.3/BCDFGISSV/2015 dated 03.01.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name V.Subramanian S/o.Velayutha Thevar and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Tirunelveli Junction 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.736 of 2014, Pettai Police Station registered under Sections 294(b), 302 and 506(ii) of the Indian Penal Code.

<https://hservices.courts.gov.in/hservices/> It is stated in the affidavit that on 01.12.2014 one Basheer, as defacto complainant has given a complaint in Tirunelveli Junction Police Station against the detenu and the same has been registered in Crime



No.896 of 2014 under Sections 341, 294(b), 387, 307 and 506(ii) of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

3. 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 in the habit of committing crime one after another 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 a friend of the detenu as petitioner.

4. 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.

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 are not disposed of without delay and therefore, the detention order in question is liable to be quashed.

6. The learned Additional Public Prosecutor has contended that the representations submitted on the side of the detenu have been duly disposed of without delay and therefore, the detention order in question need not be quashed.

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, 8 clear working days are available and in between column Nos.12 to 13, 16 clear working days are available and with regard to second representation in between column Nos.7 to 9, 45 clear working days are available and in between column Nos.12 to 13, 2 clear working days are available and no explanation has been given on the side of the respondents with regard to such inordinate 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.

8. In fine, this Habeas Corpus Petition is allowed and the detention order dated 03.01.2015 passed in No.3/BCDFGISSV/2015 by the detaining authority/second respondent herein is quashed and the detenu by name Subramanian is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To

1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.



2.The Commissioner of Police,
(Additional full charge)
Tirunelveli City,
Tirunelveli.

3.The Superintendent of Central Prison,
Palayamkottai.

4.The Joint Secretary to Government,
Public (Law & Order) Department,
Fort St.George, Chennai-9.

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

+1CC to M/s.K.Sudalaiyandi, Advocate in SR.23283

H.C.P. (MD) No.65 of 2015
29.04.2015

mj

PBK 04/05/2015 ::3P-7C: (IT)