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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 03.06.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P.(MD)No.96 of 2015

Kanimozhi

.. Petitioner

Vs.

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

2.The District Collector & District Magistrate,
Thanjavur District, Thanjavur. .. 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 2nd respondent in P.D.No.05/2015 dated 17.01.2015 in detaining the detenu under Section 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 Neelakandan @ Thiruneelakandan S/o.Govindaraj, male, aged about 39 years, now detained in Central Prison, Tiruchirapalli before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran

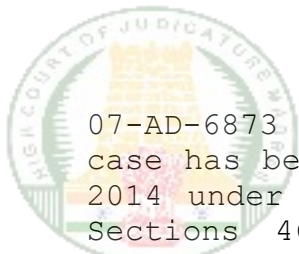
For Respondents : Mr.C.Ramesh
Addl.Public Prosecutor

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 P.D.No.05/2015 dated 17.01.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Neelakandan @ Thiruneelakandan S/o.Govindaraj and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Thanjavur East Police Station as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that on 23.12.2014 at about 11.00 pm, the concerned Sub-Inspector of Police, attached to Thanjavur East Police Station and others have made vehicle check near Lakshmi Vilas Bank, ATM Centre, Thanjavur and intercepted a vehicle bearing Registration No.TN-



07-AD-6873 and found some brandy bottles without license and ultimately a case has been registered against the detenu and others in Crime No.541 of 2014 under Sections 4(1)(a) and 4(1-A) of TNP Act, 1937 (Transport) r/w Sections 468, 471 and 420 of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

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3. The detaining authority after considering the nature of offence alleged to have been committed by the detenu, has derived subjective satisfaction to the effect that the detenu is in the habit of committing crime 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.

4. On the side of the respondents a detailed 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 are submitted and the same have not been disposed of without delay and therefore, the detention order in question is liable to be quashed.

6. The learned Additional Public Prosecutor has represented that all the representations submitted on the side of the detenu have been duly disposed of without delay and therefore, the detention order in question does not call for any interference.

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, 5 clear working days are available and in between column Nos.12 and 13, 16 clear working days are available and 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, 5 clear working days are available and no explanation has been given on the side of the respondents with regard to 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 17.01.2015 passed in P.D.No.05/2015 by the detaining authority/second respondent herein is quashed and the detenu by name Neelakandan @ Thiruneelakandan is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar

\\True copy\\

Sub Assistant Registrar



To

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

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

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

4.The Superintendent, Central Prison, Tiruchirapalli

+1CC TO M/S.K.M.KARUNAKARAN, ADVOCATE SR.NO. 27257

H.C.P. (MD) No.96 of 2015
03.06.2015

MJ

NA/PPS/04/06/2015/P3/6C