

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2016

CORAM:

THE HON'BLE MR. JUSTICE A.SELVAM

and

THE HON'BLE MR. JUSTICE P.KALAIYARASAN

HCP Nos.562 to 568 of 2016

Vikram Singh .. Petitioner in HCP.No.562/16
Aman Kumar .. Petitioner in HCP.No.563/16
Krishanlal .. Petitioner in HCP.No.564/16
Muthryazkhan .. Petitioner in HCP.No.565/16
Sri Larvanslal .. Petitioner in HCP.No.566/16
Sri Banwarilal .. Petitioner in HCP.No.567/16
Rajesh Singla .. Petitioner in HCP.No.568/16

vs.

1. The Commissioner of Police
Greater Chennai Police
Office of the Commissioner of Police
(Goondas section)
Vepery, Chennai 600 007
2. The Principal Secretary to Government
Home, Prohibition and Excise (XIV) Department
Secretariat
Chennai 600 009 .. Respondents

Prayer in HCP No.562 of 2016: Habeas Corpus Petition filed under Article 226 of the Constitution of India, to call for the records from the first respondent in Detention order vide(1) Memo No.159/BCDFGISSSV/2016 dated 20.2.2016 under the Tamil Nadu Act 14 of 1982 by setting aside the said order of detention passed by the first respondent and setting the detainee Vikas, aged about 27 years at liberty, now detained in the Central Prison, Puzhal at Chennai.

HCP.No.563/2016:

To issue a WRIT OF HABEAS CORPUS calling for the records relating to the order of detention MEMO NO.163/BCDFISSSV/2016 dated 20/02/2016 under the Tamil Nadu Act 14 of 1982 by setting aside the said order of detention passed by the Ist respondent and setting the detenu Chamn Ram S/o.Rampaul aged about 24 years at liberty now detained in Centrasl Prison, now detained in Central Prison, Puzhal, at Chennai.(in HCP.No.563 of 2016)

HCP.No.564/2016:To issue a WRIT OF HABEAS CORPUS calling for the records relating to the order of detention MEMO NO.161/BCDFISSSV/2016 dated 20/02/2016 under the Tamil Nadu Act 14 of 1982 by setting aside the said order of detention passed by the Ist Respondent and setting the detenu Gulshan kumar S/o.Krishnan Lal aged about 24 years at liberty now detained in the Central Prison, Puzhal at Chennai.

HCP.No.565/2016: MEMO NO.160/BCDFISSSV/2016 dated 20/02/2016 under the Tamil Nadu Act 14 of 1982 by setting aside the said order of detention passed by the Ist Respondent and setting the detenu Riyasait Khan S/o.Muthiyazkhan aged about 36 years, at liberty now detained in the Centrsl Prison, Puzhal at Chennai

HCP.No.566/2016:

Memo No. 162/BCDFGISSSV/2016 dated 20/02/2016 under the Tamil Nadu Act 14 of 1982 by setting aside the said order of detention passed by the Ist Respondent and setting the detenu Jithendar S/o.Larvanlal aged about 30 years, sat liberty now detained in the Central Prison, Puzhal Chennai

HCP.No.567 /2016:

Memo.NO.164/BCDFGISSSV/2016 dated 20/02/2016 under the Tamil Nadu Act, 14 of 1982 by setting aside the said order of detention passed by the Ist Respondent and setting the detenu Krishnan Chawla S/o.Banwarilal aged about 55 years at liberty now detained in the Central prison,Puzhal Chennai

HCP.NO.568/2016:Memo NO. 158/BCDFGISSSV/2016 dated 20/02/2016 under the Tamil Nadu Act of 1982 by setting aside the said order of detention passed by the Ist Respondent and setting the detenu Nithin Singla S/o.Rajesh Singla aged about 26 years at liberty now detained in the Central Prison, Puzhal, Chennai

For Petitioner : Mr.N.R.Elango,
Senior Counsel
for M/s.Chennai Associates

For Respondents : Mr.V.M.R.Rajendran
Addl.Public Prosecutor

COMMON ORDER

[Order of the Court was made by A.SELVAM, J.]

These Habeas Corpus Petitions have been filed under Article 226 of the Constitution of India, praying to call for records, relating to the detention orders dated 20.2.2016 passed in No.159/ BCDFGISSSV /2016, No.163/ BCDFGISSSV /2016, No.161/ BCDFGISSSV/ 2016, No.160/ BCDFGISSSV/2016, No.162/BCDFGISSSV/2016, No.164/BCDFGISSSV/2016, and No.158/BCDFGISSSV/2016, by the detaining authority, who has been arrayed as the first respondent herein, against the detenu by name (i) Vikas, son of Vikram Singh, (ii) Chamn Ram, son of Rampaul, (iii) Gulshan Kumar, son of Krishnan Lal, (iv) Riyasait Khan, son of Muthiyaz Khan, (v) Jithendar, son of Sri Larvans Lal, (vi) Krishnan Chawla, son of Sri Banwari Lal and (vii) Nithin Singla, son of Rajesh Singala and quash the same.

2. The Inspector of Police, Central Crime Branch, Chennai, as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is averred that on 19.1.2016, one Santhosh Kumar, Manager, Fraud Control Unit, State Bank of India Cards and Payment Services Privat Limited, as defacto complainant, has given a complaint against all the detenu and the same has been registered in Crime No.19 of 2016 under sections 66(c) and 66(d) of Information Technology Act, 2008 and also under sections 419 and 420 of Indian Penal Code and ultimately prayed to detain the detenu under Act 14 of 1982.

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 are habitual offenders and also committed grave offences and ultimately passed the impugned detention orders dated 20.2.2016 and in order to quash the same, the present petitions have been filed.

4. On the side of the respondents, in each petition, detailed counter has been filed, wherein it has been contended interalia to the effect that all the averments made in the petition are false and the detaining authority, after considering the gravity of the offences alleged to have been committed by all the detenu, has rightly passed the detention

orders in question and the same are not liable to be quashed.

5. The learned counsel appearing for the detenu has sparingly contended that on the side of all the detenu, a separate representation has been given, but the same have not been disposed of without delay. Under the said circumstances, the detention orders in question are liable to be quashed.

6. Per contra, the learned Additional Public Prosecutor, appearing for the respondents, has contended that the representations submitted on the side of all the detenu have been duly disposed of without delay and therefore, the detention orders passed do not suffer from any infirmity and all these petitions are liable to be dismissed.

7. It is an admitted fact that the first respondent, namely detaining authority, has passed the impugned detention orders dated 20.2.2016. The entire detention orders have been passed only on the basis of the complaint, which has been registered in Crime No.19 of 2016. Except the said Crime Number, no adverse cases have been pointed out against the detenu.

8. On the side of the respondents in each petition, a separate proforma has been submitted, wherein it has been clearly stated that each detenu has submitted a representation and the same has been received on 11.3.2016 and remarks have been called for on 14.3.2016, but the remarks have been submitted on 31.3.2016. In between 14.3.2016 and 31.3.2016, so many working days are available and no explanation has been given on the side of the respondents for such huge delay.

9. Considering the fact that in between Column Nos.7 to 9, huge delay has occurred and also considering that no explanation has been given on the side of the respondents, it is needless to say that such delay would affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India and on that ground alone, the entire detention orders passed against the detenu are liable to be quashed.

9. In fine, these Habeas Corpus Petitions are allowed and the detention orders dated 20.2.2016 passed in No.159/BCDFGISSSV/ 2016, No.163/ BCDFGISSSV/ 2016, No.161/ BCDFGISSSV/ 2016, No.160/ BCDFGISSSV/2016, No.162/BCDFGISSSV/2016, No.164/BCDFGISSSV/2016, and No.158/BCDFGISSSV/2016, by the first respondent are quashed. The respondents are directed to set the detenu, by name (i) Vikas, son of Vikram Singh, (ii) Chamn Ram, son of Rampaul, (iii) Gulshan Kumar, son of Krishnan Lal, (iv) Riyasait Khan, son of Muthiyaz Khan, (v) Jithendar, son of Sri Larvans Lal, (vi) Krishnan Chawla, son of Sri Banwari Lal and (vii) Nithin Singla, son of Rajesh Singala, at liberty

forthwith, unless they are required to be incarcerated in any other case.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Commissioner of Police
Greater Chennai Police
Office of the Commissioner of Police
(Goondas section)
Vepery, Chennai 600 007
2. The Principal Secretary to Government
Home, Prohibition and Excise (XIV) Department
Secretariat
Chennai 600 009
3. The Superintendent, Central Prison,
Puzhal, Chennai-66
4. The Joint Secretary to Government
Public Law and order
Fort St. George Chennai-9
5. The Public Prosecutor
High Court, Madras.

+2 ccs to M/s.Chennai Law Associates sr 50437
+1 cc to M/s.Chennai law Asosciates sr 50952 dt:09/09/2016

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