

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **29.09.2016**

CORAM:

THE HON'BLE MR.JUSTICE **A.SELVAM**
AND
THE HON'BLE MR.JUSTICE **P.KALAIYARASAN**

H.C.P.No.569 of 2016

Meena

... Petitioner

VS.

1. Government of Tamilnadu
rep.by its Principal Secretary
Home, Prohibition and Excise (XVI) Department,
Fort St.George, Chennai 9

2.The Commissioner of Police
Salem City

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records in C.M.P.No.12/GOONDA/SALEM CITY/2016 dated 15.02.2016 on the file of the second respondent herein and quash the same and direct the respondents herein to produce the body of the petitioner's husband Rajkumar, son of Arumugam, aged 30 years, now confined in Central Prison, Salem before this Hon'ble Court and set him at liberty.

For Petitioner : Ms.R.Subhadra Devi
For Respondents :Mr.V.M.R.Rajentren, APP

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 the records relating to detention order, dated 15.02.2016, passed in C.M.P.No.12/GOONDA/SALEM CITY/2016, by the detaining authority,

who has been arrayed as the second respondent herein, against the detenu, by name Rajkumar, son of Arumugam and quash the same.

2. The Inspector of Police, Ammapet Police Station, as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is averred that the detenu has involved in the following adverse cases:

(1) Ammapet Police Station Crime No.637 of 2015, registered under Sections 394 r/w 397 of Indian Penal Code

(2) Veeranam Police Station Crime No.15 of 2016, registered under Sections 387 and 506(ii) of the Indian Penal Code

3. Further, it is averred in the affidavit that on 22.1.2016, one Balashanmugam, son of Ramanathan, as defacto complainant, has lodged a complaint against the detenu in Ammapet Police Station and the same has been registered in Crime No.33 of 2016 under sections 341, 392 r/w 397 and 506(ii) of the Indian Penal Code 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 a 'Goonda' by way of passing the impugned detention order and in order to quash the same, the present petition has been filed by the wife of the detenu, as petitioner.

5. On the side of the respondents, counter has not been filed. Under such circumstances, the present petition has been disposed of on merits, on the basis of available materials on record.

6. The learned counsel appearing for the petitioner has contended that on the side of the detenu, a representation has been given and the same has not been disposed of without delay and therefore, the detention order in question is liable to be quashed.

7. Per contra, the learned Additional Public Prosecutor appearing for the respondents has contended that the representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the detention order in question does not call for interference.

8. On the side of the respondents, a proforma has been submitted, wherein it has been clearly stated that in between Column Nos.7 to 9, five clear working days are available and in between Column Nos.12 and 13, thirty three clear working days are available

and no explanation has been given on the side of the respondents for such delay 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.

In fine this Habeas Corpus Petition is **allowed**. The detention order dated 15.02.2016, passed in C.M.P.No.12/GOONDA/SALEM CITY/2016, by the detaining authority against the detenu, by name Rajkumar, son of Arumugam, is quashed and the respondents are directed to set him at liberty forthwith, unless he is required to be incarcerated in connection with some other case.

(A.S.J.) (P.K.J.)
29.09.2016

Index:Yes/no
ajr

To

1. The Principal Secretary
Home, Prohibition and Excise (XVI) Department,
Fort St.George, Chennai 9
- 2.The Commissioner of Police
Salem City
3. The Superintendent
Central Prison
Salem

**A.SELVAM,J.
AND
P.KALAIYARASAN,J**

ajr

H.C.P.No.569 of 2016

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