

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-09-2016

CORAM:

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

H.C.P.No.598 of 2016

Saiba Bibi Petitioner(Wife of the detenue)
vs.

- 1.The State of Tamil Nadu,
rep.by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-9.
- 2.The Commissioner of Police,
Chennai Police,
Vepery, Chennai-7 ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the entire records leading to the detention of the husband Asan Ali son of Rahath Ali, male aged about 26 years, is presently lodged in Central Prison, Puzhal at Chennai, and has been detained under Act 14/82 as a 'Goonda' vide detention order dated 04.03.2016 on the file of the 2nd respondent herein, made in Memo No.246/BCDFGISSSV/2016, quash the same and consequently direct the respondents herein to produce the body and person of the said detenu before this Court and thereafter set him at liberty from the Central Prison, Puzhal, Chennai.

For Petitioner : Mr.M.Rajavelu

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 04.03.2016, passed in No.246/BCDFGISSSV/2016, by the detaining authority, who has been arrayed as the second respondent herein, against

the detenu, by name Hasan Ali, Son of Rahath Ali and quash the same.

2. The Inspector of Police, T-9 Pattabiram 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.T-1 Ambattur Police Station, Cr.No.226 of 2016 under Section 379 of the Indian Penal Code.

2.T-9 Pattabiram Police Station, Cr.No.61 of 2016 under Section 379 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 09.02.2016, one Sivalingam, son of Ganesan, has lodged a complaint against the detenu in T-9, Pattabiram Police Station and the same has been registered in Crime No.81 of 2016, under Sections 341, 294(b), 323, 336, 427, 392, 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, a detailed counter has been filed, wherein it has been contended inter alia to the effect that all the averments made in the petition are false and the detaining authority, after considering the materials placed before him, has rightly branded the detenu as "Goonda" and therefore, the present petition deserves to be dismissed.

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 need not be quashed.

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, four clear working days are available and in between Column Nos.12 and 13, fifteen clear working days are available and no proper explanation has been given on the side of the respondents with regard to such huge delay and the same 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 04.03.2016, passed in No.246/BCDFGISSSV/2016, by the detaining authority against the detenu, by name Hasan Ali, son of Rahath, 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.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to the Government,
Home Prohibition and Excise Department,
Secretariat,
Chennai-600 009
- 2.The Joint Secretary to Government of TamilNadu,
Public (Law & Order)
Fort St. George, Chennai-9.
- 3.Commissioner of Police,
Vepery, Chennai.
- 4.The Superintendent of Police
Central Prison, Puzhal, Chennai
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.598 of 2016

vgi[co]
srg 27/09/2016