

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-09-2016

CORAM:

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

HCP No.617 of 2016

Thawalath Banu ... Petitioner/Wife of the
detenu
Vs.

1. The State of Tamil Nadu
Rep. by its Secretary to Government
Department of Prohibition and Excise (Home)
Fort St. George
Chennai - 600 009

2. The Commissioner of Police
Commissioner Office, Vepery
Chennai - 600 007

... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying to issue writ of habeas corpus calling for the records in connection with the detention order in Memo No.284/BCDFGISSSV/2016 dated 11-03-2016 on the file of the second respondent herein and set aside the same and direct the respondents to produce the detenu Mohammed Hussain S/o.A.E. Adham aged about 46 years now confined at Central Prison, Puzhal and set him at liberty and pass orders.

For Petitioner : Mr. Mr. Mohamed Rafi

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

O R D E R

[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 detention order Memo No.284/BCDFGISSSV/2016 dated 11-03-2016 passed by the second respondent herein against the detenu by name Mohammed Hussain by the detaining authority and quash the same.

2. The Inspector of Police, CCB, Video Piracy Cell, Crime Branch as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is averred that on 07-03-2016, the Sub-Inspector of Police, CCB and others have conducted vehicle check-up and ultimately found that the detenu is in possession of DVDs and consequently a case has been registered in Crime No.85 of 2016 under Sections 52(A) 68(A), 51 r/w 63 & 65 of Copy Right Act 1957 and also under Sections 292(2)(a) IPC 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 that the detenu is a habitual offender and ultimately branded him as a 'Video Pirater', 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.

4. Even though this petition has been posted today finally for filing counter on the side of the respondents detailed counter has not been filed. Under the said circumstances, this petition is disposed of on merits on the basis of available materials on record.

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 has 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 the representations submitted by the detenu has been duly disposed of without delay and therefore, the present petition deserves to be dismissed.

7. On the side of the respondents, a proforma has been submitted wherein it is stated that in the first representation, in the remarks Column Nos.7 and 8, 5 clear working days are available and in between Column Nos.12 and 13, 28 clear working days are available and in the second representation, Column Nos.7 and 8, 8 clear working days are available and in between Column Nos.12 and 13, 11 clear working days are available and no satisfactory explanation has been given on the side of the respondents with regard to huge delay and that itself would affect the rights of the detenu under Article 22(5) of the Constitution of India and on that ground alone the detention order in question is liable to be quashed.

In fine, the habeas corpus petition is allowed and the detention order Memo No.284/BCDFGISSSV/2016 dated 11-03-2016 is quashed. The respondents are directed to set the detenu, by name Mohammed Hussain, at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

glp

To

1. The Secretary to Government
State of Tamil Nadu
Department of Prohibition and Excise (Home)
Fort St. George
Chennai - 600 009
2. The Commissioner of Police
Chennai City Police
Commissioner Office, Vepery
Chennai - 600 007
3. The Superintendent, Central Prison,
Puzhal, Chennai-66.
4. The Joint Secretary to Government Public
(Law & order), Fort St. George, Chennai. 600 009.
5. The Public Prosecutor, High Court, Madras.

HCP No.617 of 2016

RV(CO)
Eu 28/09/2016

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