

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

H.C.P.No.643 of 2016

Manoj

... Petitioner/Detenu

Vs.

1. The Secretary to the Government
Home, Prohibition and Excise Department,
Secretariat, Chennai 9
2. District Magistrate and District Collector
Tiruppur.

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records in connection with the order of detention passed by the second respondent dated 14.10.2015 in Cr.M.P.No.20/Bootlegger/2015 against the petitioner, Manoj, male, aged 36 years, son of Sumunni, who is confined at Central Prison, Coimbatore and set aside the same and direct the respondents to produce the detenu before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.Vajiravel

For Respondents : Mr.V.M.R.Rajentren,
Additional 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 the records relating to detention order, dated 14.10.2015, passed in Cr.M.P.No.20/Bootlegger/2015, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name Manoj, son of Samunni and quash the same.

2. The Inspector of Police, Prohibition Enforcement Wing, Dharmapuram, 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) Coimbatore District Aninashi Prohibition Enforcement Wing Crime No.728 of 2012 registered under Sections 4(1)(aaa), 4(1-A), 7 and 12 of Tamilnadu Prohibition Act r/w sections 5, 6, 7 of Tamil Nadu Rectified Spirit Rules, 2000

(2) Dindigul District Palani Prohibition Enforcement Wing Crime No.281 of 2013 registered under Sections 4(1)(aaa), 4(1-A), of Tamilnadu Prohibition Act, sections 420 and 328 of Indian Penal Code r/w sections 5, 6, 7 of Tamil Nadu Rectified Spirit Rules, 2000.

3. Further, it is averred in the affidavit that under the direct supervision of the Additional Superintendent of Police, Prohibition Enforcement Wing, Tiruppur District, a vehicle check up has been made and at that time, the detenu has been found in possession of 228 numbers of Day and Night Brandy bottles each of 180 ml and consequently, a case has been registered against him in Crime No.525 of 2015 under section 4 (1)(a) r/w 4(1-A) of Tamil Nadu Prohibition Act, and also under Sections 468, 471, 420 of 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 rich bad antecedents of the detenu, has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as a 'Bootlegger' by way of passing the impugned detention order and in order to quash the same, the detenu himself has filed the present petition.

5. On the side of the respondents, a detailed counter has been filed, wherein it is averred to the effect that all the averments made in the petition are false and the detaining authority after considering the bad antecedents of the detenu, has rightly branded him as a "Bootlegger" by way of passing the impugned detention order and therefore, the present petition deserves to be dismissed.

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

7. The learned Additional Public Prosecutor appearing for the respondents has contended that the representation given on the side of the detenu has been duly disposed of without delay and therefore, the detention order in question does not call for any 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, thirty five clear working days are available and in between Column Nos.12 and 13, ten clear working days are available and no explanation has been given on the side of the respondents with regard to such huge 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 14.10.2015, passed in Cr.M.P.No.20/Bootlegger/2015, by the detaining authority against the detenu, by name Manoj, son of Samunni, 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 V)

//True Copy//

Sub Assistant Registrar

ajr

To

1. The Secretary to the Government
Home, Prohibition and Excise Department,
Secretariat, Chennai 9
2. The District Magistrate and District Collector
Tiruppur
3. The Superintendent
Central Prison
Coimbatore.
4. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
5. The Public Prosecutor,
High Court, Madras 104.

H.C.P.No.643 of 2016

RK(CO)
CA(28/09/2016)