



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 26.04.2016

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THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE B.GOKULDAS

H.C.P.(MD)No.55 of 2016

Nagavalli

..Petitioner

Vs.

1.The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Commissioner of Police,
O/o.Commissioner of Police,
Madurai City, Madurai.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai City.

..Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for the entire records connected with the detention order of the Respondent No.2 in No.145/BCDFGISSSV/2015 dated 05.11.2015 and Quash the same and direct the Respondents to produce the body or person of the detenu by name Pauv @ Poovalingam, S/o. Ramachandran, aged about 25 years now detained at Madurai Central Prison before this Honourable Court and set him at liberty forthwith.

For Petitioner : Mr.S.Malaikani

For Respondents : Mr.C.Ramesh

Addl.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 records relating to the detention order passed in No.145/BCDFGISSSV/2015 dated 05.11.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Pauv @ Poovalingam, S/o. Ramachandran and quash the same.

2.The Inspector of Police, Jaihindpuram (Crime) Police Station as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that the detenu has already involved in the following adverse cases:

(i)Crime No.1089 of 2014, V2, Avaniyapuram Police Station, registered under Sections 147, 148, 363, 342, 323, 324 and 307 of the Indian Penal Code @ 147, 148, 363, 342, 323, 324 and 302 of the Indian Penal Code; and



(ii) Crime No.660 of 2015, V2, Avaniyapuram Police Station, registered under Sections 147, 148, 341, 342, 324, 307 and 506(ii) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 16.09.2015 one Kannan S/o.Pandi as defacto complainant has given a complaint against the detenu in Jaihindpuram Police Station and the same has been registered in Crime No.939 of 2015 under Sections 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 'professional offender' and ultimately branded him as 'goonda' by way of passing the impugned detention order and in order to quash the same, the present Habeas Corpus Petition has been filed by the mother of the detenu as petitioner.

5.On the side of the respondents counter has been filed, wherein it has been contended to the effect that all the averments made in the petition are false and ultimately prayed to dismiss the same.

6.The learned counsel appearing for the petitioner has contended that on the side of the detenu two representations are submitted and the same have 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 has contended that the representations submitted on the side of the detenu have 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 with regard to first representation in between column Nos.12 and 13, 11 clear working days are available and with regard to second representation in between column Nos.7 to 9, 8 clear working days are available and in between column Nos.12 and 13, 9 clear working days are available and no explanation has been given on the side of the respondents with regard to such delay and the same would affect 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.

9.In fine, this Habeas Corpus Petition is allowed and the detention order dated 05.11.2015 passed in No.145/BCDFGISSSV/2015 by the detaining authority/second respondent herein is quashed and the detenu by name Pauv @ Poovalingam, S/o. Ramachandran is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(CS-II)

<https://hcservices.ecourts.gov.in/hcservices/> /True copy/

Sub Assistant Registrar(CS)



To

1. THE SECRETARY TO GOVERNMENT
STATE OF TAMILNADU, HOME, PROHIBITION AND EXCISE DEPARTMENT,
SECRETARIAT, FORT ST. GEORGE, CHENNAI-600 009.

2. THE COMMISSIONER OF POLICE
OFFICE OF THE COMMISSIONER OF POLICE,
MADURAI CITY, MADURAI.

3. THE SUPERINTENDENT OF PRISON
MADURAI CENTRAL PRISON,
MADURAI DISTRICT.
(IN DUPLICATE FOR COMMUNICATE TO DETENU)

4. THE DIRECTOR GENERAL OF POLICE,
CHENNAI-4.

5. THE JOINT SECRETARY TO GOVT.,
PUBLIC (LAW & ORDER) DEPT., SECRETARIATE,
FORT ST.GEORGE, CHENNAI-9.

6. THE INSPECTOR GENERAL OF PRISON,
CHENNAI-8.

7. THE INSPECTOR OF POLICE,
AVANIAPURAM, MADURAI.

8. THE ADDL. PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1cc to M/s.S.malikani, Advocate in SR.23736

H.C.P. (MD) No.55 of 2016
26.04.2016

mj

PBK/NGM-SS/SAR-I 29/04/2016 ::3P-11C::