



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 27.04.2016

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE B.GOKULDAS

H.C.P.(MD)No.65 of 2016

Chinnaiah

..Petitioner

Vs.

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

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

3.The Superintendent of Prison,
Special Prison for Women,
Tiruchirapalli.

..Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the entire records connected with the detention order of the second respondent in No.149/BCDFGISSSV/2015 dated 06.11.2015 and quash the same and direct the respondents to produce the detenu by name Jeyamary W/o.Murugan, aged about 40 years now detained in Special Prison for Women, Tiruchirappalli before this Court and set her at liberty forthwith.

For Petitioner : Mr.R.Alagumani
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.149/BCDFGISSSV/2015 dated 06.11.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Jeyamary W/o.Murugan and quash the same.

2. The Inspector of Police, B3, Teppakulam Police Station as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that on 16.10.2015 at about 11.00 hours, the Inspector of Police and other police constables have made vehicle check up in Madurai City and during their check up they found the detenu and ultimately she has been checked in the presence of two officials and found that the detenu is in possession of 4 kilograms of ganja and consequently a case has been registered in Crime No.1032 of 2015 under Section 20 (b) (ii) (B) & 25 of NDPS Act, 1985 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 to the effect that the detenu has committed a serious offence and ultimately branded her as 'drug offender' 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 son of the detenu as petitioner.

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

5.The learned counsel appearing for the petitioner has contended that on the side of the detenu three representations have been submitted and the same have 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 all the representations submitted on the side of the detenu are duly disposed of without delay and therefore, the detention order in question does not call for any interference.

7.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.7 to 9, 8 clear working days are available and in between column Nos.12 and 13, 4 clear working days are available; with regard to second representation in between column Nos.12 and 13, 9 clear working days are available and with regard to third representation in between column Nos.7 to 9, 3 clear working days are available and in between column Nos.12 and 13, 10 clear working days are available and no explanation has been given on the side of the respondents with regard to such delay in disposing of the representations submitted on the side of the detenu and that itself would affect her rights guaranteed under Article 22(5) of the Constitution of India and therefore, the detention order in question is liable to be quashed.

8.In fine, this Habeas Corpus Petition is allowed and the detention order dated 06.11.2015 passed in No.149/BCDFGISSSV/2015 by the detaining authority/second respondent herein is quashed and the detenu by name Jeyamary W/o.Murugan is ordered to be set at liberty forthwith, unless she is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar(CS)

To

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

2. The Joint Secretary to Government,
Public (Law & Order) Department,
Fort St.George, Chennai.



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

4.The Superintendent of Prison,
Special Prison for Women,
Tiruchirapalli.
(in duplicate for communicate to detenu)

5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/s.R.Alagumani, Advocate in SR.24832

H.C.P. (MD) No.65 of 2016
27.04.2016

mj

PBK/SK-SKN/SAR-I 29/04/2016 ::3P-8C::