



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 26.04.2016

Coram

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

H.C.P. (MD) No.67 of 2016

V.Saraswathi

.. Petitioner

Vs.

- 1.State of Tamilnadu,
The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
 - 2.The District Collector and District Magistrate,
Tiruvarur District, Tiruvarur.
 - 3.The Superintendent Central of Prison,
Central Prison,
Tiruchirapalli.
- .. Respondents

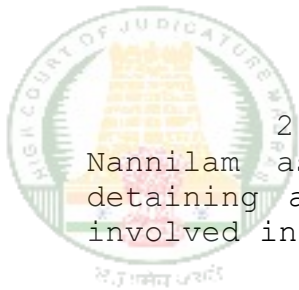
Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for the entire records in detention order passed in C.O.C.No.05/2016 dated 10.1.2016 on the file of the 2nd respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's son namely Baskar S/o.Velayutham, male aged about 35 years who is detained in Central Prison, Trichy before this Court and set him at liberty.

For Petitioner : Mr.K.A.S.Prabhu
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 C.O.C.No.05/2016 dated 10.01.2016 by the respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's son namely Baskar S/o.Velayutham and quash the same.



2.The Inspector of Police, Prohibition Enforcement Wing, Nannilam 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.95 of 2015, Nagapattinam District, Thittacherry Police Station, registered under Sections 4(1)(aaa) TNP Act, 1937 (Transport); and

(ii)Crime No.593 of 2015, Thanjavur District, Kumbakonam P.E.W., registered under Sections 4(1)(aaa) r/w 4(1-a) TNP Act, 1937 (Transport).

3. Further it is stated in the affidavit that on 22.12.2015, the Inspector of Police, Prohibition Enforcement Wing has made vehicle check up and intercepted a Tata Indica car bearing Registration No.PY-01X-9399 and ultimately found that the detenu has smuggled contraband and consequently a case has been registered in Crime No.1745/2015 under Section 4(1)(i), 4(1)(aaa) r/w 4 (1-A) TNP Act, 1937 (Transport) 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 'boot-legger' 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.

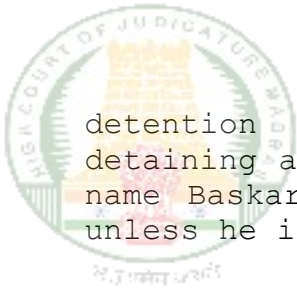
5.On the side of the respondents counter has been filed, wherein it has been contended to the effect that all the averments made in the petition are false and ultimately prayed to dismiss the same.

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.The learned Additional Public Prosecutor has contended that 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.

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.7 to 9, 2 clear working days are available and in between column Nos.12 and 13, 10 clear working days are available and with regard to second representation 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 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 10.01.2016 passed in C.O.C.No.05/2016 by the detaining authority/second respondent herein is quashed and the detenu by name Baskar S/o.Velayutham is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/

Assistant Registrar(CS-II)

WEB COPY

/True Copy/

Sub Assistant Registrar.

To

- 1.The Secretary to Government,
State of Tamilnadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
 - 2.The District Collector and District Magistrate,
Tiruvarur District, Tiruvarur.
 - 3.The Superintendent Central of Prison,
Central Prison,
Tiruchirapalli. (In duplicate to communicate the detenu)
 - 4 The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St. George,
chennai.
 - 5 The Director General of Police, chennai-4
 - 6 The Inspector General of Prisons, Chennai.
 - 7.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- +1CC to M/S.K.A.S.Prabhu, Advocate, SR.No. 24152.

H.C.P. (MD) No.67 of 2016
26.04.2016

AM/SK.SKN/AR-I/29.04.2016/3P/10C