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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.74 of 2016

Arumugam

..Petitioner

Vs.

- 1.State of Tamilnadu,
rep.by the Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Thoothukudi District, Thoothukudi.
- 3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

..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 passed in H.S(M) Confdl No.01/2016 dated 07.01.2016 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely Arunsingh S/o.Arumugam aged about 23 years now detained at Central prison Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.K.Sudalayandi
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 H.S(M) Confdl No.01/2016 dated 07.01.2016 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Arunsingh S/o.Arumugam and quash the same.

2.The Inspector of Police, Thalamuthunagar 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 case:

Crime No.414 of 2015, Thalamuthunagar Police Station,
registered under Sections 341, 294(b), 302 and 506(ii) of the



3. Further it is stated in the affidavit that on 01.12.2015 one Samuelraj S/o.Arjunan as defacto complainant has given a complaint against the detenu in Thalamuthunagar Police Station and the same has been registered in Crime No.713 of 2015 under Sections 341, 294(b), 387, 307 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 'habitual 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 father 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, 6 clear working days are available and in between column Nos.12 and 13, 12 clear working days are available and with regard to second representation in between column Nos.7 to 9, 14 clear working days are available and in between column Nos.12 and 13, 12 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 07.01.2016 passed in H.S(M) Confdl No.01/2016 by the detaining authority/second respondent herein is quashed and the detenu by name Arunsingh S/o.Arumugam is ordered to be set at liberty forthwith, unless he 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, State of Tamilnadu,
<https://hcservices.ecourts.gov.in/hcservices/>
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.



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

3. The District Collector and District Magistrate,
Thoothukudi District, Thoothukudi.

4. The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.
(in duplicate for communicate to detenu)

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

+1cc to M/s.K.Sudaliyandi, Advocate in SR.23571

H.C.P. (MD) No.74 of 2016
26.04.2016

mj

PBK/NGM-SS/AR-I 29/04/2016 ::3P-8C::