



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 29.04.2016

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

H.C.P. (MD) No.88 of 2016

Surya

.. Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

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

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 of the respondent No.2 in No.01/BCDFGISSSV/2016 dated 12.01.2016 and quash the same and direct the respondents to produce the detenu namely Ranjithkumar@ Ranjith S/o.Duraiselvam aged about 29 years detained in Palayamkottai Central Prison before this Court and set him at liberty.

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.01/BCDFGISSSV/2016 dated 12.01.2016 by the detaining authority who has been arrayed as respondent herein against the detenu by name Ranjithkumar@ Ranjith S/o.Duraiselvam and quash the same.



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

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(i) Crime No.635 of 2014, Palayamkottai Police Station, registered under Sections 147, 148, 294(b), 364, 342, 307, 506(ii), 120(b) of the Indian Penal Code r/w 34 of the Indian Penal Code.

(ii) Crime No.638 of 2014, Palayamkottai Police Station, registered under Sections 147, 148, 341, 294(b), 387, 307 and 506(ii) of the Indian Penal Code.

(iii) Crime No.525 of 2015, Karungalpalayam Police Station, registered under Sections 147, 148, 307 of the Indian Penal Code and 25(1B) of Arms Act.

(iv) Crime No.868 of 2015, Erode Town Police Station, registered under Sections 364(A) of the Indian Penal Code and 25(1) (A) of Arms Act.

(v) Crime No.770 of 2015, Palayamkottai Police Station, registered under Sections 341, 294(b), 307 and 506(ii) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 12.10.2015 one Seyed Ali S/o.Pakeer Mydeen as defacto complainant has given a complaint against the detenu in Palayamkottai Police Station and the same has been registered in Crime No.774 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 wife of the detenu as petitioner has filed the present Habeas Corpus Petition.

5. On the side of the respondents a detailed counter has been filed, wherein it is stated 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 three representations are submitted and the same have not been disposed of without delay and therefore, the detention order in question is liable to be



7. The learned Additional Public Prosecutor has contended 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.

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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, 14 clear working days are available; with regard to second representation in between column Nos. 12 and 13, 12 clear working days are available and with regard to third representation, in between column Nos. 7 to 9, 5 clear working days are available and in between column Nos. 12 and 13, 8 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 his rights 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 12.01.2016 passed in No. 01/BCDFGISSSV/2016 by the detaining authority/second respondent herein is quashed and the detenu by name Ranjithkumar@ Ranjith S/o. Duraiselvam 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
Madurai Bench of Madras High Court,
Madurai.

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To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2. The Joint Secretary to Government
Public (Law & Order), Department,
Secretariat, Chennai-9



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

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

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

+1 cc to Mr.R.Alagumani, Advocate, SR No.24576

RG.JGB-DP/AR-I 29.04.2016 4P.8C

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