

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.08.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE P.KALAIYARASAN

H.C.P.No.1054 of 2017

Elamurugan .. Petitioner

Vs

1.Government of Tamil Nadu,
Rep. by its Secretary,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Magistrate and District Collector,
Namakkal District. ... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records in detention order in C.M.P.No.04/Bootlegger/2017/M1 dated 31.05.2017 on the file of the 2nd respondent and quash the same and direct the respondents herein to produce the body of the petitioner's paternal uncle Saravanan, aged 37 years, S/o.Kanganan @ Palanimuthu, now confined in Central Prison, Salem before this Hon'ble Court and set him at liberty.

For Petitioner : Ms.R.Subhadra Devi
For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

O R D E R

[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.M.P.No.04/Bootlegger/2017/M1 dated 31.05.2017 by the Detaining Authority against the detenu by name, Saravanan, aged 37 years, S/o.Kanganan @ Palanimuthu, residing at No.6/262, Malayappanagar Colony, Oorakkarai Post, Musiri Taluk, Trichy District and quash the same.

2. The Inspector of Police, Prohibition Enforcement Wing, Namakkal as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that the detenu has involved in the following adverse cases :

- i. Villupuram Prohibition Enforcement Wing Crime No.149/2017 registered under Sections 4[1][aaa] and 4[1-A] of TNP Act.
- ii. Namakkal Prohibition Enforcement Wing Crime No.270/2017 registered under Sections 4[1][aa] and 4[1-A] of TNP Act.
- iii. Namakkal Prohibition Enforcement Wing Crime No.319/2017 registered under Sections 4[1][aaa] and 4[1-A] of TNP Act r/w 420, 468 and 471 of IPC.

3. Further, it is averred in the affidavit that on 11.05.2017, on the basis of the direction given by the Additional Superintendent of Police [PEW], Namakkal, the concerned Inspector of Police and other officials have watched vehicles and during their watch, they found one TVS Scooty Pep and the same has been intercepted and ultimately, found the detenu in possession of illicit arrack and after observing due formalities, a case has been registered in Crime No.349/2017 under Sections 4[1][aaa] and 4[1-A] of TNP Act 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 to a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as bootlegger by way of passing the impugned Detention Order and in order to quash the same, the present petition has been filed by the nephew of the detenu as petitioner.

5. In the counter filed on the side of the respondents, it is averred to the effect that most of the averments made in the petition are false. The sponsoring authority has submitted all the relevant materials to the detaining authority. The detaining authority after perusing all the relevant materials and other connected papers, has rightly derived to a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as bootlegger by way of passing the impugned Detention Order and the same does not call for any interference and therefore, the present petition deserves to be dismissed.

6. Learned counsel appearing for the petitioner has contended to the effect that the detaining authority has given a booklet to the detenu, wherein, at page No.76, remand order is available and at page No.77, remand extension order is also available. But correspondingly, no Tamil version is available for both orders and the same would affect the rights of the detenu and therefore, the detention order in question is liable

to be quashed.

7. It is seen from the booklet that at page Nos.76 and 77, the orders pointed out by the learned counsel appearing for the petitioner are available. But, its Tamil versions are not available in the booklet and the same could really affect the rights of the detenu guaranteed under Article 22[5] of the Constitution of India and on that ground alone, the Detention Order in question is liable to be quashed.

8. In fine, this petition is allowed. The Detention Order dated 31.05.2017 passed in C.M.P.No.04/Bootlegger/2017/M1 by the Detaining Authority against the detenu by name, Saravanan, aged 37 years, S/o.Kanganan @ Palanimuthu, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

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To

- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
- 2.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.
- 3.The District Magistrate and District Collector,
Namakkal District.
- 4.The Superintendent,
Central Prison, Salem,
[in duplicate for communication to the detenu]
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1054 of 2017

SVI (CO)
sp(17/08/2017)