

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.09.2017

CORAM

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

H.C.P.No.1063 of 2017

Meenakshi .. Petitioner/Wife of the
detenu

Vs

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

2. Commissioner of Police
Salem City, Police .. 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 connection with the order of Detention passed by the second respondent dated 15.02.2017 in C.M.P.No.8/Goonda/Salem City/2017 against the petitioner husband Ganesan, male aged 28 years, S/o.Easwaran, who is confined at Central Prison, Salem and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

For Respondents : Mr.V.M.R.Rajentren
Additional Public Prosecutor

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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 the records relating to the detention order passed in C.M.P.No.8/GOONDA/SALEM CITY/2017 dated 15.02.2017, against the detenu by name, Ganesan, aged 28 years, S/o.Easwaran, No.7/208,

Srinagaram, Namamalai Adivaram, South Ammapet, Salem and quash the same.

2. The Inspector of Police, Ammapet Police Station, 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) Ammapet Police Station, Crime No.596 of 2016, registered under Section 302 of Indian Penal Code, altered into Sections 302, 201 and 109 of Indian Penal Code.

3. Further it is averred in the affidavit that on 05.12.2016 one Gopi, aged 35 years, S/o.Jayapal, Ramasamy Street, Ponnammampet, Salem, as defacto complainant, has given a complaint wherein it is alleged to the effect that in the place of occurrence, the present detenu and others have unlawfully detained the defacto complainant and also tried to attack him. Under such circumstance, a case has been registered in Crime No.646 of 2016 under Sections 341, 387 and 506(ii) of Indian Penal Code and ultimately requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

4. The Detaining Authority, after perusing the averments made in the affidavit and other connected documents, has derived a 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 petition has been filed by the mother of the detenu, as petitioner.

5. On the side of the respondents, counter has not been filed. Under such circumstance, this petition is disposed of on merits on the basis of available materials on record.

6. The learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been given, but the same has 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 also equally contended to the effect that the representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the Detention Order need not be quashed.

8. On the side of the respondents, a proforma has been submitted, wherein, it has been clearly stated that in between column Nos.7 and 9, 21 clear working days are available and in between column Nos.12 and 13, 14 clear working days are available and no explanation has been given on the side of the

respondents with regard to such delay and that the same would affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 15.02.2017 passed in C.M.P.No.8/Goonda/Salem City/2017 by the second respondent against the detenu by name, Ganesan, aged 28 years, S/o.Easwaran is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

gpa

To

- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
- 2.The Secretary to Government
Government of Tamil Nadu
Home, Prohibition and Excise Department
Secretariat
Chennai - 600 009
3. The Commissioner of Police
Salem City Police
- 4.The Superintendent
Central Prison
Salem
[in duplicate for communication to the detenu]
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1063 of 2017

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