

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.09.2017

CORAM

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

H.C.P.No.1186 of 2017

Suriya .. Petitioner

Vs

1.The Secretary to the Government,  
Home, Prohibition, Excise Department,  
Secretariat,  
Chennai-9.

2.The District Collector and The District Magistrate,  
Vellore District,  
Vellore.

.. 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 2<sup>nd</sup> respondent on 15.04.2017 in C3/D.O.No.35/2017 against the petitioner's husband Jaisankar, aged 34 years, S/o.Anandan, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before the Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.Senthil Vel  
For Respondents : Mr.V.M.R.Rajentren,  
Additional Public Prosecutor

WEB COPY  
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 C3/D.O.No.35/2017 dated 15.04.2017 by the Detaining Authority against the detenu by name, Jaisankar, aged 34 years, S/o.Anandan, residing at

Koodanagaram, Gudiyatham Taluk, Vellore District and quash the same.

2. The Inspector of Police, Prohibition Enforcement Wing, Gudiyatham, 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. Gudiyatham Taluk Police Station Crime No.147/2016 under Sections 4[1]aaa, 4[1-A]ii of Tamil Nadu Prohibition Act, 1937.
- ii. Gudiyatham Taluk Police Station Crime No.292/2016 under Sections 4[1]aaa, 4[1-A]ii of Tamil Nadu Prohibition Act, 1937.
- iii. Gudiyatham Taluk Police Station Crime No.395/2016 under Sections 4[1]aaa, 4[1-A]ii of Tamil Nadu Prohibition Act, 1937.
- iv. Gudiyatham Town Police Station Crime No.113/2017 under Sections 4[1]a, 4[1-A]ii of Tamil Nadu Prohibition Act, 1937.

3. Further, it is averred in the affidavit that on 22.03.2017 at about 10.00 a.m., the Inspector of Police attached to Prohibition Enforcement Wing, Gudiyatham and other police officials, have conducted prohibition raid and at that time, the detenu has been found in possession of 110 litres of poisonous arrack and after observing due formalities, a case has been registered in Crime No.87/2017 under Sections 4[1]i, 4[1]aaa, 4[1-A]ii of Tamil Nadu Prohibition Act, 1937 and also under Section 328 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 all 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 wife of the detenu as petitioner.

5. On the side of the respondents, counter has not been filed and therefore, the present Habeas Corpus Petition is disposed of on merits on the basis of available materials on record.

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been submitted, but the same has not been

disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. Per contra, learned Additional Public Prosecutor has contended to the effect that the representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the contention put forth on the side of the petitioner is liable to be rejected.

8. On the side of the respondents, a proforma has been submitted, wherein, it is clearly stated that in between column Nos.7 to 9, 24 clear working days are available no explanation has been given on the side of the respondents with regard to such huge delay and the same would affect the 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 petition is allowed. The Detention Order dated 15.04.2017 passed in C3/D.O.No.35/2017 by the Detaining Authority against the detenu by name, Jaisankar, aged 34 years, S/o.Anandan, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-  
Asst.Registrar (CS II )

/true copy/

Sub Asst. Registrar

gya

To

1.The Joint Secretary to Government of Tamil Nadu,  
Public [Law and Order] Department,  
Secretariat, Chennai-9.

2.The Secretary to the Government,  
Home, Prohibition, Excise Department,  
Secretariat, Chennai-9.

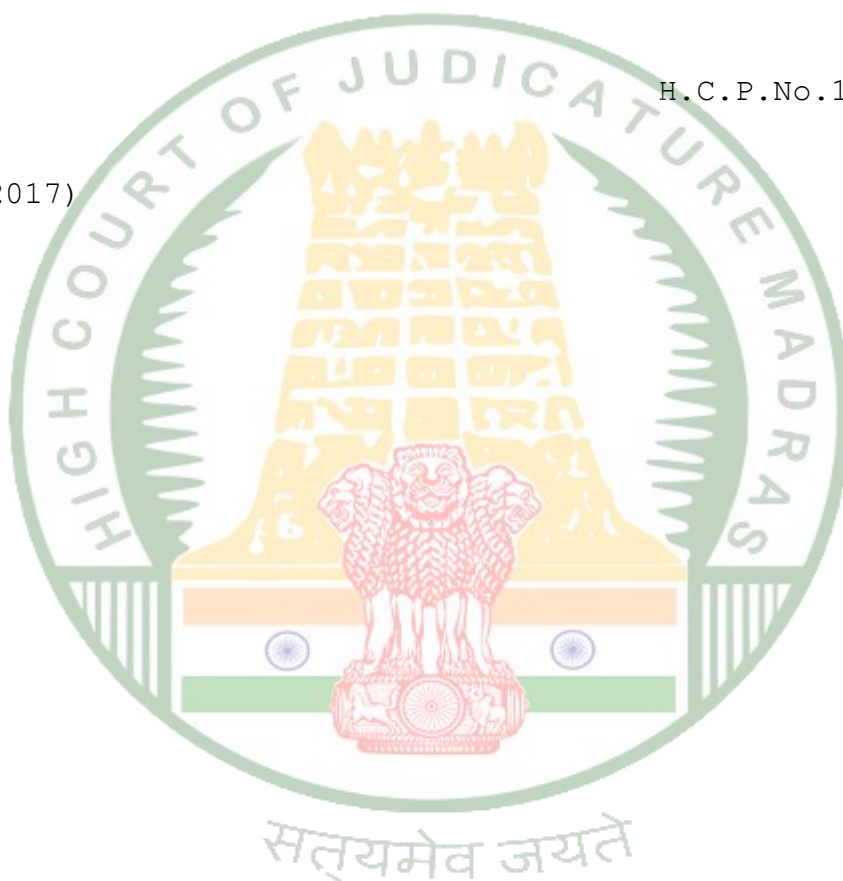
3.The District Collector and the District Magistrate,  
Vellore District,  
Vellore.

4.The Superintendent,  
Central Prison, Vellore.  
[in duplicate for communication to the detenu]

5.The Public Prosecutor,  
High Court, Madras.

H.C.P.No.1186 of 2017

SKS (CO)  
VR(19/09/2017)



WEB COPY