

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.09.2017

CORAM

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

H.C.P.No.1200 of 2017

Mathivanan

.. Petitioner

Vs

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

2. The Commissioner of Police
Greater Chennai Police

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, calling for the records relating to the detention order passed by the second respondent dated 29.03.2017 in Memo No.87/BCDFGISSSV/2017 against the petitioner cousin's son Jai @ Jaikumar, male, aged 27 years, S/o.Saravanan, who is confined in Central Prison, Puzhal II, Chennai 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.Senthil Vel

For Respondents : Mr.V.M.R.Rajentren
Additional 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 the records relating to the detention order passed in 87/BCDFGISSSV/2017 dated 29.03.2017, against the detenu by name, Jai @ Jayakumar, aged 27 years, S/o.Saravanan, residing at No.26/17, Sivananda Nagar, First Street, MKB Nagar, Ambattur, Chennai – 600 053 and quash the same.

2. The Inspector of Police, T-1 Ambattur 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) T-1 Ambattur Police Station, Crime No.4290 of 2016, registered under Section 379 of Indian Penal Code;

ii) T-1 Ambattur Police Station, Crime No.4470 of 2016, registered under Section 379 of Indian Penal Code; and

iii) T-1 Ambattur Police Station, Crime No.30 of 2017, registered under Section 379 of Indian Penal Code.

3. Further it is averred in the affidavit that on 21.01.2017, one Raja, aged 26 years, S/o.Raghu, residing at No.6, Service Road, East Balaji Nagar,

Kallikuppam, Ambattur, Chennai-53, as defacto complainant, has given a complaint in Ambattur Police Station, wherein it is alleged to the effect that in the place of occurrence, the detenu has unlawfully deterred the defacto complainant and also forcibly taken a sum of Rs.370/- by showing a knife. Under such circumstance, a case has been registered in Crime No. 319 of 2017 under Sections 341, 294(b), 336, 427, 392, 397 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 wife of the detenu, as petitioner.

5. On the side of the respondents, counter has not been filed. Under such circumstance, this Habeas Corpus 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 submitted, 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 contended 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 has been clearly stated that in between column Nos.7 and 9, 4 clear working days are available and in between column Nos.12 and 13, 22 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 29.03.2017 passed in Memo No.87/BCDFGISSSV/2017 by the second respondent against the detenu by name, Jai @ Jayakumar, aged 27 years,

S/o.Saravanan is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

[A.S., J.]

[P.K., J.]

05.09.2017

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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
Government of Tamil Nadu
Home, Prohibition and Excise Department
Secretariat
Chennai - 600 009
3. The Commissioner of Police
Greater Chennai
- 4.The Superintendent
Central Prison
Puzhal, Chennai
[in duplicate for communication to the detenu]
- 5.The Public Prosecutor,
High Court, Madras.

The seal of the High Court of Judicature Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital of Ashoka in front of it. The lion capital is set against a background of the Indian national flag's saffron, white, and green horizontal stripes. The words 'HIGH COURT OF JUDICATURE MADRAS' are inscribed in a green circular border around the central image. Below the lion capital, the Sanskrit motto 'सत्यमेव जयते' (Satyameva Jayate) is written in Devanagari script.

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A.SELVAM, J.
and
P.KALAIYARASAN, J.

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