

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.09.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE M.DHANDAPANI

H.C.P.No.1236 of 2017

Anjalai

.. Petitioner

Vs

1. The State of Tamil Nadu
rep. By Principal Secretary to Government
Home, Prohibition and Excise Department
Fort St. George
Chennai-9
2. The District Collector/District Magistrate
Ariyalur District
Ariyalur
3. The Superintendent
Central Prison
Tiruchirappalli
4. The Inspector of Police
Udaiyarpalayam Police Station
Udaiyarpalayam
Ariyalur District

.. 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 2nd respondent in Detention Order in Cr.M.P.No.10/2017 dated 17.04.2017 and to quash the same and direct the respondents to produce the body or person of the detenu, Raja S/o.Ambayiram, aged about 25 years, before this Court and set him at liberty, now detained at Central Prison, Tiruchirappalli.

For Petitioner : Mr.D.Ramesh Kumar

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 the records relating to the detention order passed in Cr.M.P.No.10 of 2017 dated 17.04.2017, against the detenu by name, Raja, aged 25 years, S/o.Ambayiram, residing at Middle Street, Aathikudikadu Village, Sendurai Taluk, Ariyalur District and quash the same.

2. The Inspector of Police, Irumbulikulurichi Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that on 09.12.2016 one Amutha, W/o.Nehru, residing at North Street, Chinna Anandavadi, Sendurai Taluk, Ariyalur District, as defacto complainant, has given a complaint in Irumbulikulurichi Police Station, wherein it is alleged to the effect that in the place of occurrence, the detenu has snatched a thaali chain worth Rs.48,000/- from the custody of the defacto complainant and due to that, a case has been registered in Crime No.257 of 2016 under Section 392 of Indian Penal Code and ultimately requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

3. 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.

4. 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.

5. The learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, two representations are submitted, but the same are not disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

6. The learned Additional Public Prosecutor has contended to the effect that the representations submitted on the side of the

detenu have been duly disposed of without delay and therefore, the contention put forth on the side of the petitioner is liable to be rejected.

7. On the side of the respondents, a proforma has been submitted, wherein, it has been clearly stated that in respect of first representation, in between column Nos.7 and 9, 9 clear working days are available and in between column Nos.12 and 13, 10 clear working days are available. Likewise, in respect of second representation, in between column Nos.7 and 9, 12 clear working days are available and in between column Nos.12 and 13, 13 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.

8. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 17.04.2017 passed in Cr.M.P.No.10 of 2017 by the second respondent against the detenu by name, Raja, aged 25 years, S/o.Ambayiram 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 VIII)

/true copy/

Sub Asst. Registrar

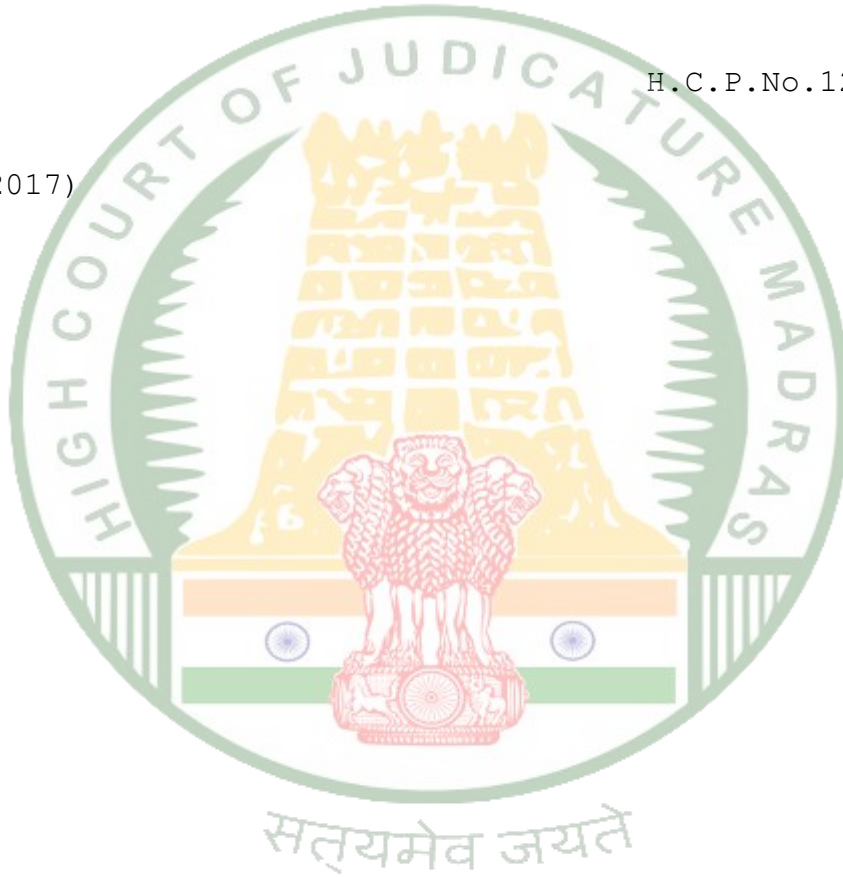
To

1. The Principal Secretary to Government
Home, Prohibition and Excise Department
Fort St. George
Chennai-9
2. The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
3. The District Collector/District Magistrate
Ariyalur District
Ariyalur

4. The Superintendent
Central Prison
Tiruchirappalli
[in duplicate for communication to the detenu]
5. The Inspector of Police
Udaiyarpalayam Police Station
Udaiyarpalayam
Ariyalur District
6. The Public Prosecutor,
High Court, Madras.

H.C.P.No.1236 of 2017

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