

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.09.2017

CORAM

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

H.C.P.No.1255 of 2017

Poonkothai

.. Petitioner

Vs

1.State of Tamil Nadu,
Rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.

2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-7.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the entire records relating to the detenu's detention order passed by the 2nd respondent in his order No. 140/BCDFGISSSV/2017 dated 07.04.2017 approved by the 1st respondent and set aside the same and produce the detenu Arjunan, aged 38 years, S/o.Babu, now detained in Central Prison, Puzhal, Chennai, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.C.C.Chellappan
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 No.140/BCDFGISSSV/2017 dated 07.04.2017 by the Detaining Authority against the detenu by name, Arjunan, aged 38 years, S/o.Babu, residing at No.28, Bhajanai Koil Street, Naravarikuppam, Redhills, Thiruvallur District and quash the same.

2. The Inspector of Police, Anti Vice Squad Police Station, Chennai, 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. Anti Vice Squad-I Crime No.2/2017 registered under Sections 3[2]a, 4[1] and 5[1]a of ITP Act.
- ii. Anti Vice Squad-I Crime No.30/2017 registered under Sections 3[2]a, 4[1] and 5[1]a of ITP Act.

3. Further, it is averred in the affidavit that on 01.03.2017, one Sajikumar, Gr-I PC 27018 and other police officials, have watched prostitution business in the place of occurrence, wherein, the detenu has approached the said Sajikumar and also taken him to an isolated house and shown him a woman and subsequently, demanded him a sum of Rs.3,000/- for having sexual intercourse with her and due to that, a case has been registered in Crime No.31/2017 under Sections 3[2]a, 4[1], 5[1]a, 6[1] and 7[1] of ITP Act 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 arrived at a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as immoral traffic offender 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. 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 materials, has arrived at a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, passed the impugned Detention Order and the same does not suffer from any infirmity and therefore, the present petition is liable to be dismissed.

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has submitted, but the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. 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 urged 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, 5 clear working days are available and in between column Nos.12 and 13, 16 clear working days are available and no explanation has been given on the side of the respondents with regard to such 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 07.04.2017 passed in No.140/BCDFGISSSV/2017 by the Detaining Authority against the detenu by name, Arjunan, aged 38 years, S/o.Babu, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. 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,
Secretariat, Chennai-9.
- 3.The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai-7.
- 4.The Superintendent,
Central Prison, Puzhal, Chennai.
[in duplicate for communication to the detenu]

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1255 of 2017

AR (CCC)
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