

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2017

CORAM

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

H.C.P.No.1309 of 2017

G.Arumugam

... Petitioner

Vs

1. The State of Tamil Nadu
Rep. By its Secretary to Government
Prohibition and Excise Department, [Home]
Secretariat, Chennai - 600 009

2. The Commissioner of Police
Chennai City, Vepery,
Chennai - 600 007

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records relating to the detenu's detention order passed by the 2nd respondent dated 30.03.2017 in No.92/BCDFGISSSV/2017 and set aside the same and produce the detenu Thiru.Sankar, male, aged about 30 years, Son of Ravi, now detained in Central Prison-II, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Ms.M.Idhaya Mary

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

सत्यमेव जयते

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 BCDFGISSSV No.92/2017 dated 30.03 .2017, against the detenu by name, Sankar, aged 30 years, S/o.Ravi, No.8/22, Housing Board, Periyar Nagar, Thiruvannamiyur, Chennai - 600 041 and quash the same.

2. The Inspector of Police, Thiruvannamiyur 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) J-6 Thiruvanniyur Police Station, Crime No.2639 of 2016, registered under Sections 147, 148, 341, 294(b), 323, 307 and 506(ii) of Indian Penal Code;

ii) J-6 Thiruvanniyur Police Station, Crime No.2647 of 2016, registered under Sections 147, 148, 341, 294(b), 323, 392 r/w. 336, 427, 397 and 506(ii) of Indian Penal Code;

iii) J-6 Thiruvanniyur Police Station, Crime No.3264 of 2016, registered under Sections 147, 148, 341, 324, 307 and 506 (ii) of Indian Penal Code; and

iv) J-6 Thiruvanniyur Police Station, Crime No.3346 of 2016, registered under Section 8(c) r/w.20(b) (ii) (C) of NDPS Act.

3. Further it is averred in the affidavit that on 02.02.2017, one Mohandas, aged 33 years, S/o.Anthony, residing at No.6, Jayaram Street, Thiruvanniyur, Chennai-41, as defacto complainant, has given a complaint against the detenu, wherein it is alleged to the effect that in the place of occurrence, the detenu has forcibly taken away a sum of Rs.2100/- from the custody of the defacto complainant and also attacked him by using a deadly weapon. Under such the said circumstance, a case has been registered in Crime No.418 of 2017 under Sections 341, 294(b), 323, 427, 336, 392 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 considering 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 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 has been clearly stated that in between column Nos.7 and 9, 5 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 30.03.2017 passed in BCDFGISSSV No.92/2017 by the second respondent against the detenu by name, Sankar, aged 30 years, S/o.Ravi, residing at No.8/22, Housing Board, Periyar Nagar, Thiruvannamiyur, Chennai-600 041 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 III)

//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 the Government
Home, Prohibition and Excise Department
Secretariat, Chennai - 600 009
3. The Commissioner of Police
Chennai City, Vepery,
Chennai - 600 007
4. The Superintendent
Central Prison II,
Puzhal, Chennai-600 006
[in duplicate for communication to the detenu]
5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.1309 of 2017

VSN(CO)
CA(14/09/2017)