

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.09.2017

CORAM

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

H.C.P.No.1332 of 2017

Jainullabudeen .. Petitioner

Vs

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

2.The Commissioner of Police,
Greater Chennai,
O/o.The Commissioner of Police [Goondas Section],
Vepery, Chennai-7.

3.The Superintendent of Police,
Central Prison,
Puzhal, Chennai.

... 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 impugned detention order passed by the 2nd respondent in detention order BCDFGISSSV No.95/2017 dated 31.03.2017 and quash the same and consequently direct the respondents to release the detenu Jagabarsali, aged 30 years, S/o.Jainullabudeen, now detained at Central Prison, Chennai and set him at liberty forthwith.

For Petitioner : Mr.A.Ganesh
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 BCDFGISSSV No.95/2017 dated 31.03.2017 by the Detaining Authority against the detenu by name, Jagabarsali, aged 30 years, S/o.Jainullabudeen, residing at No.280/16, Velan Nagar Main Road, Valasaravakkam, Chennai-87 and quash the same.

2. The Inspector of Police, J-8 Neelankarai 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-8 Neelankarai Police Station Crime No.404/2017 registered under Sections 147, 148, 341, 294[b], 307 and 506[iii] of the Indian Penal Code.
- ii. J-8 Neelankarai Police Station Crime No.718/2017 registered under Section 379 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 05.03.2017, one Panneerselvam, aged 38 years, S/o.Mani, residing at No.5/171, Blue Beach Road, Periya Neelankarai Kuppam, Neelankarai, Chennai-115, as de facto complainant has given a complaint in J-8 Neelankarai Police Station, wherein, it is alleged to the effect that in the place of occurrence, the detenu and others have formed unlawful assembly and illegally detained the de facto complainant and with an intention to murder him, attacked him by using deadly weapons and thereby, caused injuries and also threatened him. Under such circumstances, a case has been registered in Crime No.776/2017 under Sections 147, 148, 341, 294[b], 307, 336, 427 and 506[iii] 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 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 goonda by way of passing the impugned Detention Order and in order to quash the same, the present petition has been filed by the father of the detenu as petitioner.

5. On the side of the respondents, counter has not been filed. Under such circumstances, this 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, three representations are submitted, but the same are not disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. Per contra, Learned Additional Public Prosecutor has also contended that all the representations submitted on the side of the detenu are 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 respect of 1st representation, in between column Nos.7 to 9, 4 clear working days are available and in between column Nos.12 and 13, 20 clear working days are available and in respect of 2nd representation, in between column Nos.7 to 9, 7 working days are available and in between column Nos.12 and 13, 15 clear working days are available. Likewise, in respect of 3rd representation, in between column Nos.7 to 9, 1 working day is 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 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 31.03.2017 passed in BCDFGISSSV No.95/2017 by the Detaining Authority against the detenu by name, Jagabarsali, aged 30 years, S/o.Jainullabudeen 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

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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 the Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai-9.

3.The Commissioner of Police,
Greater Chennai,
O/o.The Commissioner of Police [Goondas Section],
Vepery, Chennai-7.

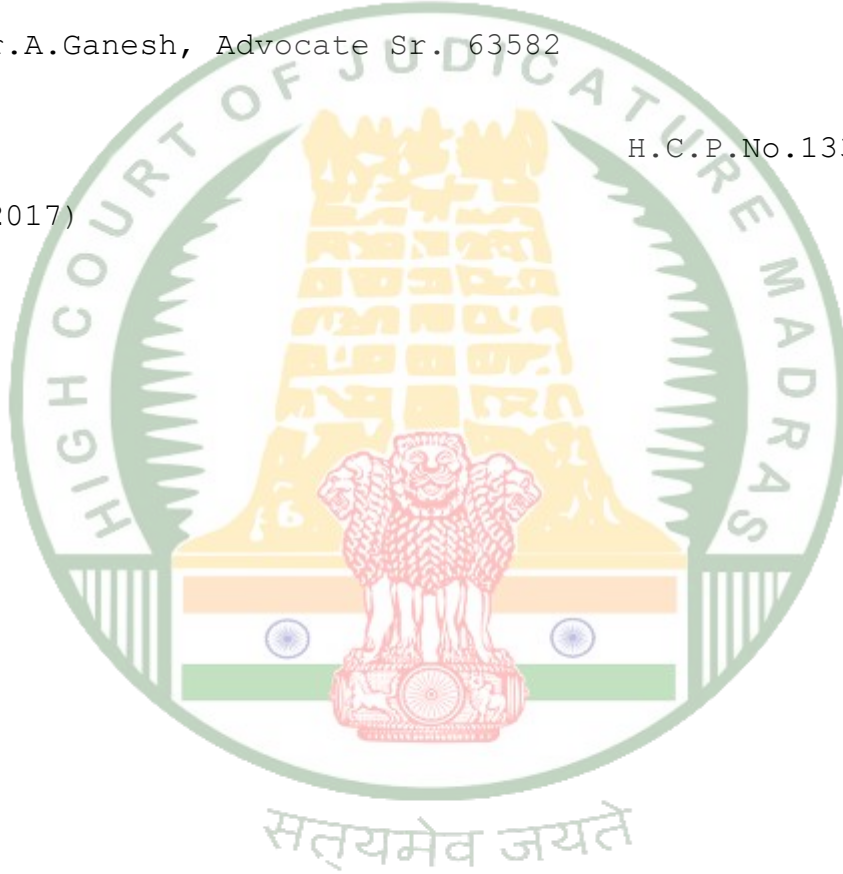
4.The Superintendent,
Central Prison, Puzhal, Chennai.
[in duplicate for communication to the detenu]

5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.A.Ganesh, Advocate Sr. 63582

H.C.P.No.1332 of 2017

VR(04/09/2017)



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