

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.08.2017

CORAM

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

H.C.P.No.1356 of 2017

P.Govindaraj .. Petitioner

Vs

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

2.The District Magistrate and District Collector,
O/o.The District Collector,
Salem District.

.. 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 detention order under Tamil Nadu Act 14/1982 vide in C.M.P.No. 10/Goonda/C2/2017 dated 13.02.2017 on the file of the 2nd respondent herein and consequently to direct the respondent to produce the body of the detenu Govindaraj, aged 37 years, S/o.Palanisamy, who have been confined in Central Prison, Salem before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.M.Chandran
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 C.M.P.No.10/Goonda/C2/2017 dated 13.02.2017 by the Detaining Authority against the detenu by name, Govindaraj, aged 37 years, S/o.Palanisamy, residing at K.P.Karadu, Ittery Road, Nethimedu, Salem South Taluk, Salem District and quash the same.

2. The Inspector of Police, Tharamangalam 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. Kondalampatty Police Station Crime No.68/2016 registered under Section 392 of IPC.
- ii. Shevapet Police Station Crime No.274/2016 registered under Section 392 of IPC
- iii. Tharamangalam Police Station Crime No.575/2016 registered under Section 379 of IPC.

3. Further, it is averred in the affidavit that on 06.11.2016, one Venkataachalam, S/o.Govindan, as de facto complainant has given a complaint in Tharamangalam Police Station against the detenu, wherein, it is stated that in the place of occurrence, by showing a knife, the detenu has forcibly taken away a sum of Rs.1,300/- from the custody of the de facto complainant and consequently, a case has been registered in Crime No.578/2016 under Sections 392 r/w 397 of IPC 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 arrived 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 detenu himself as petitioner.

5. On the side of the respondents, counter has not been filed and therefore, the present petition is disposed of 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, 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. 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 detenu 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, 29 clear working days are available and in between

column Nos.12 and 13, 24 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 13.02.2017 passed in C.M.P.No.10/Goonda/C2/2017 by the Detaining Authority against the detenu by name, Govindaraj, aged 37 years, S/o.Palanisamy 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 IV)

/true copy/

Sub Asst. Registrar

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-9.

3.The District Magistrate and District Collector,
O/o.The District Collector,
Salem District.

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

5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.G.Natarajan, Advocate in sr.no.60648

H.C.P.No.1356 of 2017

BR(CO)
NR 23/08/2017