

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.08.2017

CORAM

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

H.C.P.No.150 of 2017

Kumari .. Petitioner

Vs

1.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,
Tiruvallur District,
Tiruvallur.

.. 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 leading to the detention of the petitioner's son Rajesh @ Rajesh Kumar, aged 24 years, S/o.Ravichandran, presently lodged in Central Prison, Puzhal at Chennai and has been detained under Act 14/1982 as a goonda vide detention order dated 12.01.2017 on the file of the 2nd respondent herein, made in BCDFGISSSV No.04/2017 and quash the same and consequently direct the respondents herein to produce the body and person of the said detenu before this Hon'ble Court and thereafter set him at liberty.

For Petitioner : Mr.M.Rajavelu

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.04/2017 dated 12.01.2017 by the Detaining Authority against the detenu by name, Rajesh @ Rajesh Kumar, aged 24 years, S/o.Ravichandran,

residing at No.54, Akkaiah Naidu Street, Tiruthani Town, Tiruvallur District and quash the same.

2. The Inspector of Police, Tiruthani 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. Tiruthani Police Station Crime No.431/2016 registered under Sections 341, 294[b], 324, 307 and 506[ii] of IPC.
- ii. Tiruthani Police Station Crime No.640/2016 registered under Sections 120[b], 341, 324, 302, 506[iii] of IPC and also under Sections 4[b] and 5[a] of Explosive Substances Act, 1908 read with Section 3[1] of TNPPDL Act, 1984.

3. Further, it is averred in the affidavit that on 12.10.2016, one Sakthi, S/o.Ekambaram, residing at No.108, Gandhi Road, Tiruthani, as de facto complainant has given a complaint to the Sub Inspector of Police, Tiruthani Police Station, wherein, it is averred to the effect that in the place of occurrence, he has done samosa business, the detenu and another have purchased Samosa, but refused to give a sum of Rs.160/- to the de facto complainant and due to that, a wrangling has occurred between the detenu and the de facto complainant and ultimately, he robbed a sum of Rs.290/- from the pocket of the de facto complainant by showing a deadly weapon and consequently, a case has been registered in Crime No.644/2016 under Sections 294[b], 392, 397, 307 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 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 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. Even though several adjournments have been granted, on the side of the respondents, counter has not been filed. Under such circumstances, the present petition is disposed of on the basis of the 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 to the concerned authorities and the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. Per contra, 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 and 9, 24 clear working days are available and in between column Nos.12 and 13, 3 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 12.01.2017 passed in BCDFGISSSV No.04/2017 by the Detaining Authority against the detenu by name, Rajesh @ Rajesh Kumar, aged 24 years, S/o.Ravichandran is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

gya
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,
Fort St. George, Chennai-9.
- 3.The District Magistrate and District Collector,
Tiruvallur District, Tiruvallur.
- 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.150 of 2017

KGK(CO)
sp(18/08/2017)