

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-07-2017

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR.JUSTICE P.KALAIYARASAN

H.C.P.No.164 of 2017

Ranganathan

.... Petitioner

vs.

1. The State of Tamil Nadu,
rep. by Secretary to Government
Home, Prohibition and Excise Department
Fort St. George, Chennai 9.
2. The District Magistrate and District
Collector, Perambalur District,
Perambalur.
3. The Inspector of Police,
Mangalmedu Police Station,
Perambalur District. ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records relating to the detenu's detention order passed by the second respondent in Cr.M.P.No.22/2016 DATED 01.12.2016 and set aside the same and produce the detenu Suresh alias Sureshkumar, S/o Ramasamy, aged about 28 years, now detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty forthwith.

For Petitioner : Mr.V.Logeswaren

For Respondents: Mr.V.M.R.Rajentren, APP

ORDER

(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 detention order, dated 01.12.2016 passed in Cr.M.P.No.22/2016 by the detaining authority against the detenu, by name Suresh alias Sureshkumar, S/o Ramasamy, aged 28, residing at 7/72-A, Opposite to Four Road, Opposite to E.B. Office, Perambalur and now at Pillaiyar Kovil Street, Pappankarai Village, Perambalur Taluk, Perambalur District and quash the same.

2. The Inspector of Police, Perambalur Police Station, as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is averred that the detenu has involved in the following adverse cases:

i. Perambalur Prohibition Enforcement Wing
Cr.No.498/2015 registered under Sections 4(1)
(a) r/w 4(1-A) (Transport) altered into 4(1)
(aa) (ii) (Transport) of TNP Act, 1937.

ii. Mangalamedu Police Station, Cr.No.651 of 2016,
registered under Section 4(1)(a) r/w 4(1-A)
(Transport) of TNP Act, 1937.

3. Further, it is averred in the affidavit that on 14.11.2016, the Inspector of Police, Prohibition Enforcement Wing, Perambalur Unit and other police officials, have conducted vehicle check-up and ultimately, found the detenu. The detenu is in possession of 120 King Fisheer Beer bottles without licence and consequently, a case has been registered in Crime No.825 of 2016 under Section 4(1)(aa) r/w 4(1-A) (Transport) of the Tamil Nadu Prohibition Act, 1937 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 subjective satisfaction to the effect that the detenu is in the habit of committing crimes one after another and ultimately branded him as a 'Bootlegger' by way of passing the impugned detention order and in order to quash the same, the present petition has been filed by the son of the sister of the detenu, as petitioner.

5. On the side of the respondents, a counter has been filed, wherein it has been contended inter alia to the effect that all the averments made in the affidavit are false and the sponsoring authority has submitted all material records to the detaining authority. The detaining authority, after considering the materials placed before him, has derived subjective satisfaction that the detenu is in the habit of committing crimes one after another and ultimately, passed the impugned detention order, branding the detenu as "Bootlegger" and therefore, the present petition deserves to be dismissed.

6. The learned counsel appearing for the petitioner has contended that on the side of the detenu, three representations have been given and the same have not been disposed of without delay and therefore, the detention order in question is liable to be quashed.

7. Per contra, the learned Additional Public Prosecutor appearing for the respondents has contended that the representations submitted by the detenu are duly disposed of without delay and therefore, the detention order in question need not be quashed.

8. On the side of the respondents, a proforma has been submitted, wherein it has been clearly stated that in respect of first representation, in between Column Nos.7 to 9, 5 clear working days are available and in between Column Nos.12 and 13, 23 clear working days are available. In respect of second representation, in between Column Nos.12 and 13, 23 clear working days are available. Likewise, in respect of the third representation, in between Column Nos.7 to 9, 6 clear working days are available and in between Column Nos.12 and 13, 6 clear working days are available. No explanation has been given on the side of the respondents with regard to the huge delay in disposing of the representations submitted on the side of the detenu 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.

In fine, this Habeas Corpus Petition is allowed. The detention order dated 01.12.2016 passed in Cr.M.P.No.22/2016 by the detaining authority against the detenu, by name Suresh alias Sureshkumar, S/o Ramasamy, aged 28, residing at 7/72-A, Opposite to Four Road, Opposite to E.B. Office, Perambalur and now at Pillaiyar Kovil Street, Pappankarai Village, Perambalur Taluk, Perambalur District, is quashed and the respondents are directed to set him at liberty forthwith, unless he is required to be incarcerated in connection with some other case.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

sra

To

1. The Secretary
Home, Prohibition and Excise Department,
Fort St. George, Chennai 9
2. The District Magistrate and District
Collector, Perambalur District,
Perambalur.
3. The Superintendent of Police,
Central Prison, Tiruchirappalli.
(In duplicate for Communication to Detenue)
4. The Public Prosecutor,
High Court, Madras

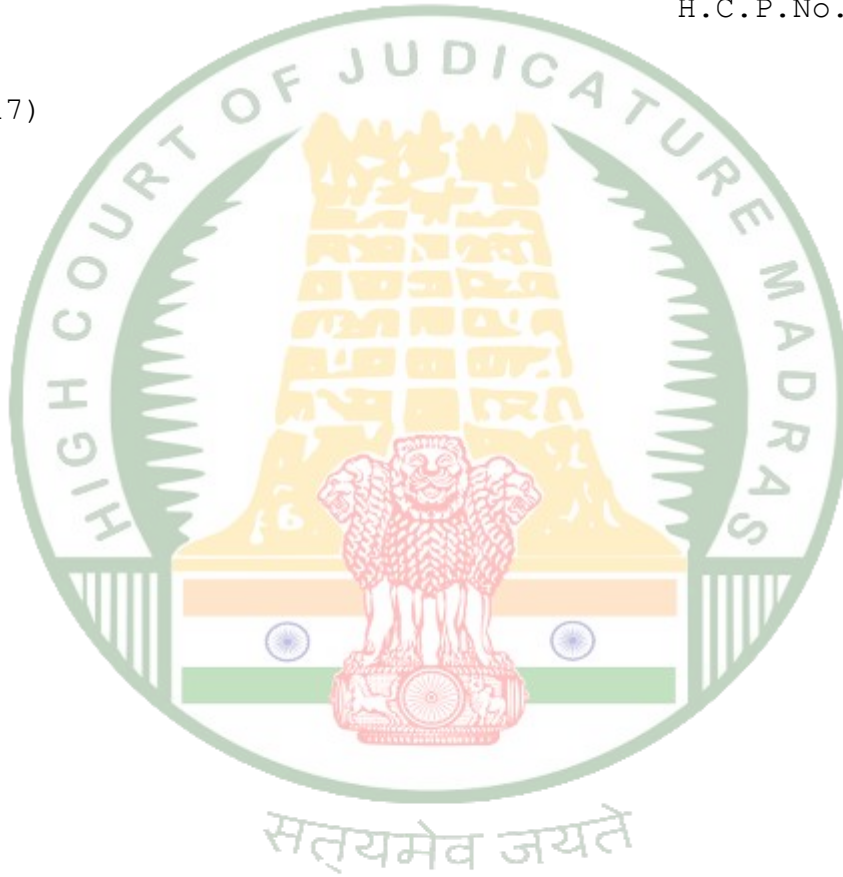
5.The Inspector of Police,
Mangalmedu Police Station,
Perambalur District

6.The Joint Secretary to Government,
Public(Law & Order)
Fort St.George, Chennai-9.

+2ccs to V.Logeswaran,Advocate for the petitioner sr.47466

H.C.P.No.164 of 2017

kj(co)
ss(7/7/2017)



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