

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.197 of 2017

Muthulakshmi

.. Petitioner

Vs

1. The Secretary to the Government
Home, Prohibition and Excise Department
Secretariat
Chennai - 600 009

2.District Magistrate &
District Collector
Dharmapuri

.. 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 Detention Order passed by the second respondent in S.C.No.04/2017 dated 13.01.2017, against Jaiganesh, male, aged 32 years, S/o.Vijayan, who is confined at Central Prison, Salem and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

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 the records relating to the detention order passed in S.C.No.04/2017 dated 13.01.2017, against the detenu by name, Jaiganesh, aged 32 years, S/o.Vijayan, D.No.5/556, Bye Pass Road, Muniyappan Kovil Street, Palacode, Palacode Taluk, Dharmapuri District and quash

the same.

2. The Inspector of Police, Mahendramangalam 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) Krishnagiri Town Police Station, Crime No.250 of 2016, registered under Sections 457 and 380 of Indian Penal Code; and

ii) Marandahalli Police Station, Crime No.285 of 2016, registered under Section 392 of Indian Penal Code.

3. Further, it is averred in the affidavit that on 22.12.2016, one Daivam, S/o. Kasinathan, residing at Malluppatti Village, Karimangalam Taluk, Dharmapuri District, as defacto complainant, has given a complainant in Mahendramangalam Police Station, wherein it is alleged to the effect that on the same day at about 02.00 pm in the place of occurrence, the detenu has forcibly taken away a sum of Rs.600/- from the pocket of the defacto complainant. Under Such circumstance, a case has been registered in Crime No.188 of 2016, under Section 392 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 wife 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 material records.

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 that the representation submitted on the side of the detenu has been 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 has been clearly stated that in between column Nos.7 and 9, 10 clear working days are available and in

between column Nos.12 and 13, 6 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 and therefore, the Detention Order in question is liable to be quashed.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 13.01.2017 passed in S.C.No.04/2017 by the second respondent against the detenu by name, Jaiganesh, aged 32 years, S/o.Vijayan, D.No.5/556, Bye Pass Road, Muniyappan Kovil Street, Palacode, Palacode Taluk, Dharmapuri District is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(CCC)

//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.District Magistrate &
District Collector
Dharmapuri
- 4.The Superintendent
Central Prison
Salem
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.197 of 2017

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