

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2017

CORAM:

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

H.C.P.No.226 of 2017

Tamilarasi

... Petitioner

Vs.

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

2. The Commissioner of Police,
Greater Chennai Police,
Egmore, Chennai-600 008

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records in connection with the order of detention passed by the 2nd respondent dated 14.01.2017 in Memo No.34/BCDFGISSV/2017 against the brother of the petitioner Manimaran @ Jobida Mani, aged 23, who is confined at Central Prison, Puzhal, Chennai and set aside the same and consequently direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.K.S.Kaviarasu

For Respondents : Mr.V.M.R.Rajentran,
Additional Public Prosecutor

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 passed in No.BCDFGISSSV No.34/2017, dated 14.01.2017, by the detaining authority against the detenu, by name Manimaran @ Jobida Mani, aged 23 years, S/o Venkatesan, No.14490, Kannagi Nagar, Chennai-600 097, and quash the same.

2. The Inspector of Police, J11 Kannagi Nagar 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-11 Kannaki Nagar Police Station Cr.No.1406 of 2015, registered under Sections 294(b), 341, 323, 324, 307 and 506(ii) of the Indian Penal Code.
- ii. J-11 Kannaki Nagar Police Station Cr.No.94 of 2016, registered under Sections 294(b), 341, 342, 323, 392 r/w.397, 336, 427 and 506(ii) of the Indian Penal Code.
- iii. J-11 Kannaki Nagar Police Station Cr.No.136 of 2016, registered under Sections 341, 294 (b), 323, 392 and 506(ii) of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 30.10.2016, at about 01.30 hrs, the Sub-Inspector of Police, J11 Kannagi Nagar Police Station, has received an information from the General Hospital and after receipt of information, the said Sub-Inspector has rushed to the General Hospital and recorded a statement from one Mrs.Manjula, wherein it is alleged to the effect that the present detenu and others have formed an unlawful assembly in the place of occurrence and also indiscriminately attacked one Kalia @ Ranjith Kumar, son of the defacto complainant and further the detenu and others have also attacked others with an intention to murder them and thereby caused injuries. Due to their overt act, the said Kalia @ Ranjith Kumar has passed away and consequently, a case has been registered in Crime No.1505 of 2016, under Sections 147, 148, 294(b), 324, 307 and 302 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 perusing the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as a 'Goonda' by way of passing the impugned detention order and in order to quash the same, the present petition has been filed by the sister of the detenu, as petitioner.

5. In the counter filed on the side of the respondents it is averred to the effect that most of the averments made in the petition are false. The sponsoring authority has submitted all the relevant materials to the detaining authority. The detaining authority, after considering all the relevant materials and other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as a 'goonda' by way of passing the impugned detention order and the same does not require any interference and therefore, the present petition deserves to be dismissed.

6. The 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. Per contra, the learned Additional Public Prosecutor appearing for the respondents 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 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 between Column Nos.7 to 9, eight clear working days are available and in between Column Nos.12 and 13, four 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.

In fine, this Habeas Corpus Petition is allowed. The detention order dated 14.01.2017, passed in BCDFGISSSV No.34/2017, by the detaining authority against the detenu, by name Manimaran @ Jobida Mani, aged 23 years, S/o Venkatesan, No.14490, Kannagi Nagar, Chennai-97, 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/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

msh
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 Commissioner of Police,
Greater Chennai Police,
Egmore, Chennai-600 006
4. The Superintendent,
Central Prison,
Puzhal, Chennai-600 006.
5. The Public Prosecutor,
High Court, Madras