

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.07.2017

CORAM

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

H.C.P.No.274 of 2017

Devaraj

... Petitioner

Vs

1. The State of Tamil Nadu ,
rep by Secretary to Government
Home, Prohibition and Excise Department
Chennai - 600 009
2. The Commissioner of Police/
Detaining Authority
City Police Office
Huzur Road
Coimbatore City
Coimbatore - 600 018

... Respondents/
Respondents 1 & 2

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for records in Memo No.C.No.04/G/IS/2017 dated 24.01.2017 on the file of the second respondent herein, to set aside the same and direct the respondents to produce the detenu i.e., the body of D.Ranjith Kumar, S/o.Devaraj, male, aged about 28 years, confined in Central Prison, Coimbatore before this Court and set him at liberty.

For Petitioner : Mr. V.Purushothaman
For Respondents : Mr.J.Karuppiah
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 detention order passed in C.No.04/G/IS/2017 dated

24.01.2017, against the detenu by name, D.Ranjithkumar, aged 28 years, S/o.Devaraj, Melapoosanoothu, Singarajapuram, Varusanadum, Theni District, and quash the same.

2. The Inspector of Police, Podanur 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:-

1. Coimbatore City, B-4 Race Course Police Station, Crime No.877/2015, registered under Sections 8(c) r/w.20(b)(ii) (B) of NDPS Act, 1985;

3. Further, it is averred in the affidavit that on 25.12.2016, the Inspector of Police, D-3 Podanur Police Station and others have conducted a raid and in the place of occurrence, they found that the detenu is in possession of 6 kgs of Kanja without having licence and after observing due formalities, a case has been registered in Crime No.912 of 2017 under Section 8(c) r/w.20(b)(ii)(B) and 29(i) of NDPS Act, 1985 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 "Drug Offender" 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. In the counter filed on the side of the respondents, it is averred that most of the averments made in the petition are false. The Sponsoring Authority has submitted all the materials records to the Detaining Authority. The Detaining Authority, after considering all the relevant materials submitted to him and other connected documents, has derived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as "Drug Offender" and therefore, the same does not call for any interference and 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. 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 put forth 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, 7 clear working days 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 24.01.2017 passed in C.No.04/G/IS/2017 by the second respondent against the detenu by name, D.Ranjithkumar, aged 28 years, S/o.Devaraj, Melapoosanoothu, Singarajapuram, Varusanadum, Theni District, now at Door No.7/1, Anbu Nagar, Chettipalayam Road, Podanur, Coimbatore 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 VI)

/true copy/

Sub Asst. Registrar

gpa

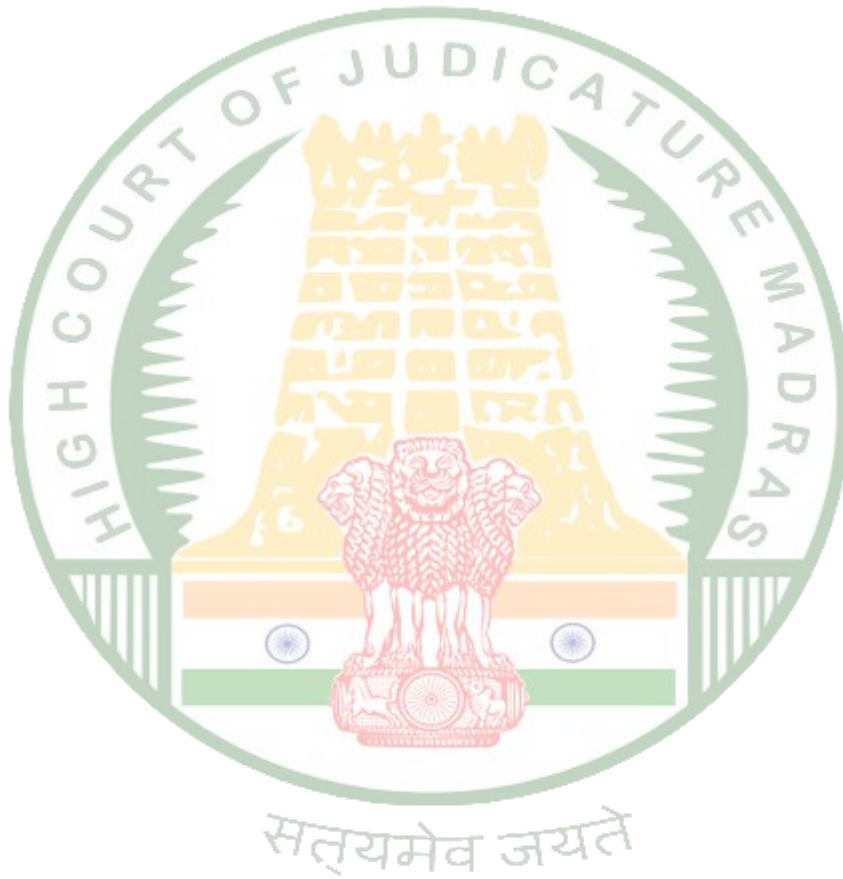
To

1. The Secretary to Government
Home, Prohibition and Excise Department
Fort St. George
Chennai - 600 009
2. The Commissioner of Police,
Detaining Authority, City Police Office,
Huzur Road, Coimbatore City,
Coimbatore 641 018
3. The Superintendent
Central Prison
Coimbatore.

4. The Joint Secretary to Government,
Public (Law & Order) Department,
Fort St.George, Chennai-9.
5. The Public Prosecutor,
High Court, Madras.

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