

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2017

CORAM:

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

H.C.P.No.298 of 2017

Nagammal

.... Petitioner

vs.

1.The Government of Tamil Nadu,
rep.by its Secretary,
Prohibition and Excise Department,
Fort St.George, Chennai.

2.The Commissioner of Police,
Greater Chennai.

3.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.

... 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 detention order passed by the 2nd respondent in Memo No.21/BCDFGISSSV/2017, dated 10.01.2017 and quash the same and consequently to produce the detenu Micheal S/o.Davind Babu, aged about 25 years, before this Court, now he is detained at the Central Prison, Puzhal, Chennai and to release and set him at liberty forthwith.

For Petitioner : Mr.P.Vijendran

For Respondents : Mr.V.M.R.Rajentran, Addl.P.P.

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 BCDFGISSSV No.21/2017, dated 10.01.2017, by the detaining authority against the detenu, by name Michael, S/o Davidbabu, aged 25 years, No.24/59, Meenambal Street, West Tambaram, Chennai-600 045 and quash the same.

2. The Inspector of Police, Tambaram 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. S-11 Tambaram Police Station, Cr.No.1106/2016 registered under Section 379 of the Indian Penal Code.

ii. S-11, Tambaram Police Station, Cr.No.1537 of 2016, registered under Section 379 of the Indian Penal Code.

iii. S-11 Tambaram Police Station, Cr.No.1956/2016, registered under Sections 294(b), 384 and 506 (ii) of the Indian Penal Code.

iv. S-11 Tambaram Police Station, Cr.No.2800/2016, registered under Sections 457 and 511 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 08.11.2016, one Moideen, aged 28 years, son of Sheik Mahadoor, residing at No.12, Oil Mill Street, Mudichur Road, West Tambaram, Chennai-45, as defacto complainant, has given a complaint against the detenu, wherein it is stated to the effect that in the place of occurrence, by showing a knife, the detenu has forcibly taken away a sum of Rs.700/- from the shirt pocket of the defacto complainant and also threatened him and under such circumstances, a case has been registered in Crime No.2844 of 2016, under Sections 341, 336, 427, 392 read with Section 397 and 506(ii) 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 considering 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 maternal aunt of the detenu, as petitioner.

5. Even though the present petition has been posted today finally for filing counter, on the side of the respondents, counter has not been filed. Under such circumstances, this Court is inclined to dispose of this petition on the basis of available 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 submitted 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, the learned Additional Public Prosecutor appearing for the respondents has contended that the representation submitted by the detenu has already been 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 is clearly stated that in between Column Nos.7 to 10, eleven clear working days are available and in between Column Nos.12 and 13, six 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 10.01.2017, passed in BCDFGISSSV No.21/2017 by the detaining authority against the detenu, by name Michael, S/o Davidbabu, aged 25 years, residing at No.24/59, Meenambal Street, West Tambaram, Chennai-600 045, 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 (CS III)

/true copy/

Sub Asst. Registrar

To

1. The Joint Secretary to Government of
Tamil Nadu, Public (Law and Order)
Department,
Secretariat, Chennai-9.
2. The Secretary
Home, Prohibition and Excise Department,
Fort St. George, Chennai 9
3. The Commissioner of Police,
Greater Chennai.

4. The Superintendent of Prison,
Central Prison, Puzhal, Chennai.

5. The Public Prosecutor,
High Court, Madras

+1cc to Mr.P.Vijendran, Advocate in sr.no.57371

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RR(CO)
NR 09/08/2017



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