

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.300 of 2017

M.Puspha

.. Petitioner

Vs

1. The Secretary to the Government
Government of Tamil Nadu (Home)
Prohibition and Excise Department
Fort. St.George, Chennai - 600 009

2. The Commissioner of Police
Salem City

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records of the detention made in C.M.P.No.4/Goonda/Salem City/2017 dated 02.02.2017 on the file of the 2nd respondent herein and set aside the same and direct the respondent to produce the detenu Pallumani @ Manikandan @ Gunaseelan, S/o.Murugesan, aged 21 years, now confined in Borstal School, Pudukkottai before this Court and set him at liberty.

For Petitioner : Mr.E.C.Ramesh

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 C.M.P.No.4/Goonda/Salem City/2017 dated 02.02.2017 by the Detaining Authority against the detenu by name, Pallumani @ Manikandan @ Gunaseelan, aged 21 years, S/o.Murugesan, residing at No.144, Narayana Nagar, Kalidoss Street, Housing Board, Kitchipalayam, Salem and quash the same.

2. The Inspector of Police, Veeranam 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) Ammapet Police Station, Crime No.685 of 2016, registered under Sections 341, 394 r/w. 397, 294(b) of Indian Penal Code;

ii) Ammapet Police Station, Crime No.687 of 2016, registered under Section 392 of Indian Penal Code; and

iii) Ammapet Police Station, Crime No.692 of 2016, registered under Section 379 of Indian Penal Code;

3. Further it is averred in the affidavit that on 23.12.2016 at about 8 hours, one Sarathkumar, aged 23 years, S/o. Shanmugam, Mannarpalayam Pirivu Road, Allikuttai, Salem, as defacto complainant, has given a complaint against the detenu wherein it is alleged that by showing a deadly weapon, the detenu has snatched gold chain of the defacto complainant and also created panic in the minds of the general public. Under such circumstance, a case has been registered in Crime No.441 of 2016 under Sections 341, 392 r/w. 397 and 506(ii) of 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 papers, 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 mother of the detenu, as petitioner.

5. Despite repeated adjournments, counter has not been filed on the side of the respondents. Under such circumstance, this petition is disposed of on merits on the basis of available materials on record.

6. Learned counsel appearing for the petitioner has contended to the effect that the detenu has been supplied with a booklet, but in most of the places illegible copies of documents are annexed and the same would affect the rights of the detenu and therefore, the Detention order in question is liable to be quashed.

7. Learned Additional Public Prosecutor has contended that the detenu has been supplied with all relevant documents in the form of booklet and the same are legible and therefore, the contention urged on the side of the petitioner is liable to be rejected.

8. In fact, this Court has perused the entire booklet wherein, at Page No.170, a copy of First Information Report is found place and the same is not readable. As rightly pointed out on the side of the petitioner, 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 petition is allowed. The Detention Order dated 02.02.2017 passed in C.M.P.No.4/Goonda/Salem City/2017 by the second respondent against the detenu by name, Pallumani @ Manikandan @ Gunaseelan, aged 21 years, S/o.Murugesan, residing at No.144, Narayana Nagar, Kalidoss Street, Housing Board, Kitchipalayam, Salem is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

s/d-
Assistant Registrar(CS-II)

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 Government of Tamil Nadu (Home) Prohibition and Excise Department Fort. St.George, Chennai - 600 009
3. The Commissioner of Police Salem City
4. The Superintendent of Central Prison Pudukkottai
5. The Public Prosecutor, High Court, Madras.

H.C.P.No.300 of 2017

VGI (CO)
sp(21/08/2017)