

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2017

CORAM

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

H.C.P.No.302 of 2017

V.Jayanthi

... Petitioner

Vs

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

2.The District Collector and District Magistrate,
Krishnagiri, Krishnagiri District.

... 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 S.C.No.02/2017 dated 27.01.2017 on the file of the second respondent herein and set aside the same and direct the respondent to produce the detenu Thiru.Gobi S/o.Thiru.Venkatesh aged 24 years, now confined in Central Prison, Salem before this Court and set him at liberty.

For Petitioner : Mr.R.Sankarasubbu
for Mr.E.C.Ramesh

For Respondents : Mr.V.M.R.Rajentran,
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.02/2017 dated 27.01.2017 by the Detaining Authority against the detenu by name, Gopi, aged 24 yrs S/o.Venkatesh, residing at D.No.556/67, 2nd Parvathi Nagar, Hosur, Hosur Taluk, Krishnagiri District and quash the same.

2. The Inspector of Police, Bagalur 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. Hosur Town Police Station Crime No.778/2015 registered under Sections 394 @ 341, 394 r/w 397 of Indian Penal Code.
- ii. Bagalur Police Station Crime No.440/2016 registered under Section 302 of Indian Penal Code.

3. Further, it is averred in the affidavit that on 15.12.2016, at about 15.00 hrs., one Murugan, S/o.Kuppusamy, as de facto complainant has given a complaint to the Inspector of Police, Bagalur Police Station, against the detenu and the same has been registered in Crime No.442/2016 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 arrived to a subjective satisfaction that the detenu is in the habit of committing crimes one after another and ultimately, branded him as "Goonda" by 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. On the side of the respondents, a detailed counter has been filed, wherein, it is contended inter alia to the effect that most of the averments made in the petition are false and the Sponsoring Authority has submitted all the relevant particulars to the Detaining Authority and the Detaining Authority after considering all the materials supplied to him, has rightly invoked Act 14 of 1982 against the detenu and thereby, branded him as "Goonda" and the same does not suffer from any infirmity and therefore, the present petition deserves to be dismissed.

6. Learned counsel appearing for the petitioner/detenu has contended to the effect that on the side of the detenu, a representation has been given to the concerned authorities. But, the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. Learned Additional Public Prosecutor has contended that the representation given on the side of the detenu has been duly disposed of without delay and therefore, the present petition deserves to be dismissed.

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, fourteen clear working days are available. Likewise, in between column Nos.12 and 13, twenty clear working days are available and no explanation has been given on the side of the respondents for the huge delay and that itself 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 27.01.2017 passed in S.C.No.02/2017 by the second respondent against the detenu by name, Gopi, S/o.Venkatesh is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

- 1.The Secretary to the Government,
Government of Tamil Nadu (Home)
Prohibition and Excise Department,
Fort St.George, Chennai-9.
- 2.The District Collector and District Magistrate,
Krishnagiri, Krishnagiri District.
- 3.The Superintendent,
Central Prison, Salem.
- 4.The Joint Secretary to Government,
Public (Law & Order),
Fort Saint George, Chennai-9.
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.302 of 2017

GJII(CO)
VR(11/07/2017)