

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.07.2017

CORAM

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

H.C.P.No.351 of 2017

G.Munusamy

.. Petitioner/
Cousin brother of Detenue

Vs

1.The District Collector and District Magistrate,
Villupuram District,
Villupuram.

2.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to direct the respondents herein to produce the detenu Ulas @ Rajesh, aged 23 years, S/o.Sankar, who is detained under Act 14/82 by the District Collector and District Magistrate, Villupuram District, Villupuram in his proceedings No.C2/1819/2017 dated 21.01.2017, who is now confined in the Central Prison, Cuddalore, before this Hon'ble Court and quash the same and set him at liberty.

For Petitioner : Mr.A.N.Rajan

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 records relating to the detention order passed in No.C2/1819/2017 dated 21.01.2017 by the Detaining Authority against the detenu by name, Ulas @ Rajesh, aged 23 years, S/o.Sankar, residing at No.27, Manjangkuppather Street, Bommaiypalayam Village, Vanur Taluk, Villupuram District and quash the same.

2. The Inspector of Police, Kottakuppam Police Station as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that on 02.11.2016, the Sub Inspector of Police, Kottakuppam Police Station and other Police officials have watched movement of criminals at Periyamudaliarchavadi bus stop. At that time, the detenu and another have come to the place of occurrence by using a motorcycle. The detenu has driven the same in a rash and negligent manner and the same has been questioned by the Sub Inspector of Police and all of a sudden the detenu has hurled a country bomb towards the police officials, but fortunately, the same has not been exploded and consequently, a case has been registered in Crime No.629/2016 under Sections 294[b], 353, 341, 506[ii], 307, 332 and 511 of Indian Penal Code r/w Sections 4[a] and 5 of Explosive Substances Act, 1908 and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

3. The Detaining Authority after considering the averments made in the affidavit and other connected documents, has arrived at 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 cousin brother of the detenu as petitioner.

4. Despite repeated adjournments, counter has not been filed on the side of the respondents and therefore, this petition has been disposed of on merits, on the basis of available materials.

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

6. Learned Additional Public Prosecutor 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 detenu is liable to be rejected.

7. 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, 10 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.

8. In fine, this petition is allowed. The Detention Order dated 21.01.2017 passed in No.C2/1819/2017 by the Detaining Authority against the detenu by name, Ulas @ Rajesh, aged 23 years, S/o.Sankar 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

To

- 1.The District Collector and District Magistrate,
Villupuram District,
Villupuram.
 - 2.The Principal Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.
 3. The Superintendent,
Central Prison, Cuddalore
 4. The Joint Secretary to Government
Public(Law and order)
Fort. St. George
Chennai.
 5. The Public Prosecutor,
High Court, Madras.
- +1 CC to Mr.A.N. Rajan, Advocate sr 54146

H.C.P.No.351 of 2017

RV(CO)
SP(02/08/2017)