

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.08.2017

CORAM

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

H.C.P.No.365 of 2017

Geetha

.. Petitioner

Vs

1.State of Tamil Nadu

Rep. By its Secretary to Government
Home Prohibition and Excise Dept.
Secretariat
Chennai - 600 009.

2.The Commissioner of Police

Greater Chennai Police
Vepery, Chennai - 600 007.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the entire records, relating to petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 02.02.2017 on the file of the second respondent herein made in proceedings No.47/BCDFGISSSV/2017 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's husband namely Pathu (a) Pathmanaban, son of Vinayagasundaram, aged 47 years before this Court and set the petitioner's husband at liberty from detention, now petitioner's husband detained at Central Prison - II, Puzhal, Chennai - 600 066.

For Petitioner : Mr.C.C.Chellapan

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 Memo No.47/BCDFGISSSV/2017 dated 02.02.2017 by the Detaining

Authority against the detenu by name, Pathu @ Pathmanaban, aged 47 years, S/o.Vinayagasundaram, No.59, Thirumalai Nagar, Anna Nagar, Morai Village, Avadi, Chennai - 600 055 and quash the same.

2. The Inspector of Police, T-7 Tank Factory Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred effect that the detenu has involved in the following adverse cases:

i) T-7 Tank Factory Police Station, Crime No.302 of 2013, registered under Section 392 of Indian Penal Code; and

ii) T-7 Tank Factory Police Station, Crime No.1918 of 2016, registered under Section 302 of Indian Penal Code.

3. Further it is averred in the affidavit that on 17.11.2016 one Chandru, has given a complaint in T7 Tank Factory Police Station wherein it is alleged to the effect that in the place of occurrence, by showing deadly weapon, detenu has forcibly taken away a sum of Rs.2200/- from the short pocket 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.1927 of 2016 under Sections 341, 294(b), 397, 336, 427 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 documents, 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. On the side of the respondents, counter has not been filed and therefore, the present petition is disposed of on merits on the basis of materials available on record.

6. 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. Learned Additional Public Prosecutor has equally contended 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 petitioner is liable to be rejected.

8. On the side of the respondents, a proforma has been

submitted, wherein, it is clearly stated that in between column Nos.7 and 9, 9 clear working days are available and in between column Nos.12 and 13, 3 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.

9. In fine, this petition is allowed. The Detention Order dated 02.02.2017 passed in Memo No.47/BCDFGISSSV/2017 by the Detaining Authority against the detenu by name, Pathu @ Pathmanaban, aged 47 years, S/o.Vinayagasundaram, No.59, Thirumalai Nagar, Anna Nagar, Morai Village, Avadi, Chennai - 600 055, 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 VIII)

/true copy/

Sub Asst. Registrar

gpa
To

- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
- 2.The Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai - 600 009
- 3.The Commissioner of Police
Greater Chennai Police
Vepery, Chennai - 600 007.
- 4.The Superintendent
Central Prison II, Puzhal, Chennai
(In Duplicate)
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.365 of 2017

ss (22/8/2017)