

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.07.2017

CORAM

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

H.C.P.No.383 of 2017

Shabana Banu .. Petitioner

Vs

1.The State of Tamil Nadu
Rep. By its Secretary to Government
Home, Prohibition and Excise Department
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 13.02.2017 on the file of the second respondent herein made in Proceedings No.64/BCDFGISSSV/2017 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's husband, namely Ameenudeen, Son of Tajudeen, aged 27 years, now detained in Central Prison - II, Puzhal, Chennai - 600 066 before this Court and set the petitioner's husband at liberty.

For Petitioner : Mr.C.C.Chellappan
For Respondents : Mr..V.M.R.Rajentren
Additional Public Prosecutor

WEB COPY
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 Detention Order No.64/BCDFGISSSV/2017 dated 13.02.2017, by the Detaining Authority against the detenu by name, Ameenudeen, aged 27 years,

S/o.Tajudeen, residing at No.51/46, 53rd Block, Manali New Town, Chennai-103 and quash the same.

2. The Inspector of Police, M7-Manalai New Town 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) T-3 Korattur Police Station, Crime No.361 of 2015, registered under Section 379 of Indian Penal Code;

ii) K4 Anna Nagar Police Station, Crime No.318 of 2015, registered under Section 341, 323, 294(b), 336, 397 & 506(ii) of Indian Penal Code;

iii) M-7, Manali New Town Police Station, Crime No.1210 of 2016, registered under Section 379 of Indian Penal Code; and

iv) M-7, Manali New Town Police Station, Crime No.1943 of 2016, registered under Section 379 of Indian Penal Code.

3. Further, it is averred in the petition that on 26.12.2016, one Raghupathy, S/o.Amavasai, as defacto complainant, has given a complaint against the detenu in Manali New Town Police Station and the same has been registered in Crime No.1951 of 2016 under Sections 341, 294(b), 336, 427, 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 considering the averments made in the affidavit and other connected materials, 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 wife of the detenu, as petitioner.

5. On the side of the respondents, the counter has not been filed.

6. The learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been given, but 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 has contended that the representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the relief sought for in the present petition cannot be granted.

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, 5 clear working days are available and in between Column Nos.12 and 13, four clear working days are available and no explanation has been given on the side of the respondents with regard to such delay and that 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 Habeas Corpus Petition is allowed and the Detention Order dated 13.02.2017 passed in Detention Order No.64/BCDFGISSSV/2017 by the second respondent against the detenu by name, Ameenudeen, aged 27 years, S/o.Tajudeen, residing at No.51/46, 53rd Block, Manali New Town, Chennai-103 is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gpa

To

- 1.The Secretary to the Government,
Home Prohibition and Excise Department,
Fort St. George
Chennai
- 2.The Commissioner of Police
Greater Chennai Police
Vepery, Chennai - 600 007
- 3.The Superintendent Central Prison II,
Puzhal, Chennai-66.
(In Duplicate for communication to Detenue)
- 4.The Joint Secretary to Government,
public (Law & Order),
Fort.St.George, Chennai-9.
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.383 of 2017

RJ(CO)
GN(14/07/2017)