

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.08.2017

CORAM

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

H.C.P.No.422 of 2017

Shekar

.. Petitioner

Vs

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Secretariat,
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 in connection with the detention order dated 18.02.2017 in S.C.No.08/2017 of 2nd respondent and direct the respondents to produce the detenu, namely, Nagaraj before this Hon'ble Court and set him at liberty and quash the same.

For Petitioner : Mr.K.Thiruvengadam

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 S.C.No.08/2017 dated 18.02.2017 by the Detaining Authority against the detenu by name, Nagaraj, aged 32 years, S/o.Ullyappa, residing at Upparathamandrapalli Village, Sanamavu Post, Shoolagiri Taluk, Krishnagiri District and quash the same.

2. The Inspector of Police, Uthanapalli 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 case :

- i. Uthanappalli Police Station Crime No.435/2016 registered under Section 302 of the Indian Penal Code.

3. Further, it is averred in the affidavit that one Devaraj, S/o.Narayana Achari, residing at Uthanappalli Village & Post, Shoolagiri Taluk, Krishnagiri District, as de facto complainant has given a complaint in Uthanappalli Police Station, wherein, it is averred to the effect that on the same day, in the place of occurrence, by showing a knife, the detenu has forcibly taken away a sum of Rs.700/- from the shirt pocket of the de facto complainant and also threatened him. Under such circumstances, a case has been registered in Crime No.436/2016 under Sections 341, 294[b], 392 r/w 397 and 506[iii] of the 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 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 a friend of the detenu as petitioner.

5. On the side of the respondents, counter has not been filed and therefore, the present Habeas Corpus petition has been 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 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 also 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 to 9, 17 clear working days are available and in between column Nos.12 and 13, 7 clear working days are available and no explanation has been given on the side of the respondents with

regard to such huge 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 18.02.2017 passed in S.C.No.08/2017 by the Detaining Authority against the detenu by name, Nagaraj, aged 32 years, S/o.Ulliyappa 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 IV)

/true copy/

Sub Asst. Registrar

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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,
Government of Tamil Nadu,
Secretariat, Chennai-9.

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

4.The Superintendent,
Central Prison, Salem.
[in duplicate for communication to the detenu]

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.422 of 2017

mn(co)
ss(30/8/2017)