

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.09.2017

CORAM

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

H.C.P.No.424 of 2017

Sarasu

... Petitioner

Vs

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

2.The District Collector and District Magistrate,
Erode District, Erode-11. ... 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 the petitioner's son detention under the Tamil Nadu Act 14/1982 as a Drug Offender vide detention order dated 07.03.2017 on the file of the 2nd respondent herein made in proceedings vide Cr.M.P.No.05/DRUG OFFENDER/2017 C1, quash the same as illegal and consequently direct the respondents herein to produce the detenu namely, Anbalagan, aged 46 years, S/o.Late Mookkaiah Thevar, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.W.Camyles Gandhi
For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

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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 Cr.M.P.No.05/DRUG OFFENDER/2017 C1 dated 07.03.2017 by the Detaining Authority against the detenu by name, Anbalagan, aged 46 years, S/o.Late

Mookkaiah Thevar, residing at Kamaraj Nagar, Andipatti, Andipatti Taluk, Theni District and quash the same.

2. The Inspector of Police, Puliampatti Police Station as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that on 17.12.2016 at about 22.00 hrs, the Inspector of Police, Puliampatti Police Station and others have made vehicle check up and intercepted a vehicle bearing registration No.TN72 L1643 and ultimately, found the detenu is in possession of bhang, an intoxication substance and consequently, a case has been registered in Crime No.324/2016 under Sections 8[c] r/w 20[b] [ii][c] and 25 of NDPS Act, 1985 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 has committed a grave offence and ultimately, branded him as drug offender 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.

4. On the side of the respondents, counter has not been filed and therefore, the present Habeas Corpus Petition is disposed of on merits on the basis of available materials on record.

5. 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.

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

8. In fine, this petition is allowed. The Detention Order dated 07.03.2017 passed in Cr.M.P.No.05/DRUG OFFENDER/2017 C1 by the Detaining Authority against the detenu by name, Anbalagan, aged 46 years, S/o.Late Mookkaiah Thevar is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant 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 The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George, Chennai-9.

3.The District Collector and District Magistrate,
Erode District, Erode-11.

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

5.The Public Prosecutor,
High Court, Madras.

+ 1 cc to M/s.W.Camyles Gandhi Advocate sr 66015

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