

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE N.AUTHINATHAN

H.C.P.No.428 of 2017

Basubeerappa

... Petitioner

Vs

1. The Secretary to Government
Home, Prohibition & Excise Department
Government of Tamil Nadu
Secretariat, Chennai-9
2. The District Collector & District Magistrate
Krishnagiri District
Krishnagiri

... 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.7 of 2017 of 2nd respondent and direct the respondents to produce the detenu, namely Seenivas aged 33 years, Son fo Basubeerappa before this Court lodged at Central Prison, Salem 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.7 of 2017 dated 18.02.2017 by the Detaining Authority against the detenu by name, Seenivas, aged 33 years, S/o.Pasubeerappa, residing at Upparathamandrapalli Village, Sanamavu Post, Shoolagiri Taluk, Krishnagiri District and quash the same.

2. The Inspector of Police, Uthanappalli 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 of 2016, registered under Section 302 of Indian Penal Code.

3. Further it is averred in the affidavit that on 14.12.2016, one Devaraj, Son of Narayana Achari, Uthanappalli Village, Shoolagiri Taluk, Krishnagiri District, as defacto complainant, has given a complaint, wherein it is alleged that in the place of occurrence, the detenu by showing a knife has avulsed a sum of Rs.700/- from the defacto complainant and also threatened him. Under the said circumstances, a case has been registered in Crime No.436 of 2016 under Sections 341, 294(b), 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 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 father of the detenu, as petitioner.

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

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. 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 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 has been clearly stated that in between column Nos.7 and 9, 18 clear working days are available and in between column Nos.12 and 13, 8 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 petition is allowed. The Detention Order dated 18.02.2017 passed in S.C.No.07/2017 by the second respondent against the detenu by name, Seenivas, aged 33 years, S/o.Pasubeerappa, residing at Upparathamandrapalli Village, Sanamavu Post, Shoolagiri Taluk, Krishnagiri District is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant 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 & Excise Department
Government of Tamil Nadu
Secretariat, Chennai-9
3. The District Collector & District Magistrate
Krishnagiri District
Krishnagiri
4. The Superintendent, सत्यमेव जयते
Central Prison, Salem
5. The Public Prosecutor,
High Court, Madras.

AR CCC
CA(31/08/2017)

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