

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.08.2017

CORAM

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

H.C.P.No.455 of 2017

Saraswathi ... Petitioner/Mother of the Detenue

Vs

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

2.The District Collector and District Magistrate,
Thiruvannamalai. ... 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 order of detention passed by the 2nd respondent dated 26.01.2017 in D.O.No.03/2017-C2 against the petitioner's son, Sathya, Male, aged 23 years, S/o.Manoharan, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before the Hon'ble Court and set him at liberty.

For Petitioner : Mr.D.Balaji

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 D.O.No.03/2017-C2 dated 26.01.2017 by the Detaining Authority against the detenu by name, Sathya, aged 23 years, S/o.Manoharan, residing at No.102, Perumal Koil Street, Sathambakkam Village, Walaja Taluk, Vellore District and quash the same.

2. The Inspector of Police, Arni 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. Kalambur Police Station Crime No.576/2016 registered under Section 379 of IPC.
- ii. Arni Taluk Police Station Crime No.875/2016 registered under Section 392 @ 394 of IPC.

3. Further, it is averred in the affidavit that on 02.12.2016, one Vijayamoorthy, S/o.Thirunavukarasu, residing at No.45/18, Power House Street, Saidapet, Arni Town and Taluk, Tiruvannamalai District, as de facto complainant has given a complaint, wherein, it is alleged to the effect that the present detenu and another have forcibly avulsed a gold chain weighing one sovereign from the neck of the de facto complainant by showing deadly weapons and also created panic in the minds of the general public and at such circumstances, a case has been registered in Crime No.1037/2016 under Sections 341, 294[b], 427, 336, 506[ii] and 392 r/w 397 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 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 the mother of the detenu as petitioner.

5. On the side of the respondents, counter has not been filed and at such circumstances, the present petition is disposed of on the basis of the available materials on record.

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, two representations are submitted to the concerned authorities and the same have not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. Per contra, learned Additional Public Prosecutor has contended to the effect that the representations submitted on the side of the detenu are duly disposed of without delay and therefore, the contention put forth on the side of the detenu is liable to be rejected.

8. On the side of the respondents, a proforma has been submitted, wherein, it is clearly stated that in respect of first representation, in between column Nos.7 to 9, 9 clear

working days are available and in between column Nos.12 and 13, 4 clear working days are available. Likewise, in respect of second representation, in between column Nos.7 to 9, 17 clear working days are available and in between column Nos.12 and 13, 6 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 26.01.2017 passed in D.O.No.03/2017-C2 by the Detaining Authority against the detenu by name, Sathya, aged 23 years, S/o.Manoharan 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 III)

/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 the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.
- 3.The District Collector and District Magistrate,
Thiruvannamalai.
- 4.The Superintendent,
Central Prison, Vellore, Chennai.
[in duplicate for communication to the detenu]
- 5.The Public Prosecutor,
High Court, Madras.

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PUS (CO)
NR 16/08/2017