

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.07.2017

CORAM

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

H.C.P.No.458 of 2017

Ramanujam .. Petitioner /Father of Detenue
Vs

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

2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-7. .. 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 14.10.2016 in No.1103/BCDFGISSSV/2016 against petitioner's son, the detenu herein, now confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu Radha @ Radhakrishnan, aged 31 years, S/o.Ramanujam, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.A.Nirmal Kumar
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 No.1103/BCDFGISSSV/2016 dated 14.10.2016 by the Detaining Authority against the detenu by name, Radha @ Radhakrishnan, aged 31 years, S/o.Ramanujam, residing at No.3/1, Rani Anna Nagar, Arumbakkam, Chennai-106 and quash the same.

2. The Inspector of Police, K-8 Arumbakkam 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. K-3 Aminjikarai Police Station Crime No.213/2016 registered under Sections 302 of IPC @ 147, 148, 302 of IPC r/w 120[b] and 34 of IPC.
- ii. K-8 Arumbakkam Police Station Crime No.413/2016 registered under Sections 341, 294[b], 397 and 506[ii] of IPC.
- iii. K-8 Arumbakkam Police Station Crime No.416/2016 registered under Sections 341, 294[b], 392 and 506[ii] of IPC.
- iv. P-6 Kodungaiyur Police Station Crime No.1021/2016 registered under Section 392 of IPC.

3. Further, it is averred in the affidavit that on 05.07.2016, one Damodharan, S/o.Kuppusamy, as de facto complainant has given a complaint in K-8 Arumbakkam Police Station against the detenu and the same has been registered in Crime No.651/2016 under Sections 341, 294[b], 336, 427, 323, 397 and 506[iii] 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 father of the detenu as petitioner.

5. Even though this petition has been posted today finally for filing counter, counter has not been filed and therefore, 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 have been submitted to the concerned authorities and the same are not 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 has been duly disposed of without delay and therefore, the contention urged 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 has been clearly stated that in respect of first representation, in between column Nos.7 and 9, 7 clear working days are available and in between column Nos.12 and 13, 18 clear working days are available. Likewise, in respect of

second representation, in between column Nos.7 and 9, 2 clear working days are available and in between column Nos.12 and 13, 36 clear working days are available and no explanation has been given on the side of the respondents with regard to such a 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 14.10.2016 passed in No.1103/BCDFGISSSV/2016 by the Detaining Authority against the detenu by name, Radha @ Radhakrishnan, aged 31 years, S/o.Ramanujam is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gya

To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-9.
- 2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-7.
- 3.The Public Prosecutor,
High Court, Madras.(In Duplicate to Communicate to the detenu)
- 4.The superintendent, central prison, puzhal, chennai-66.
- 5.The Joint Secretary to Government,
Public (Law & Order) Fort St.George, Chennai-600 009.

H.C.P.No.458 of 2017

KJ(CO)
GN(27/07/2017)