

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.09.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE M.DHANDAPANI

H.C.P.No.488 of 2017

Shobana .. Petitioner /Wife 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,
Vellore District, Vellore-9. ... 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 13.03.2017 in C3/D.O.No.26/2017 against the petitioner's husband Dinesh @Veechu Dinesh, aged 32 years, S/o.Sivanandham, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.D.Balaji

For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

सत्यमेव जयते
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 C3/D.O.No.26/2017 dated 13.03.2017 by the Detaining Authority against the detenu by name, Dinesh @Veechu Dinesh, aged 32 years, S/o.Sivanandham, residing at No.96/41, Madam Street, Sathuvachari, Vellore, Vellore Taluk, Vellore District and quash the same.

2. The Inspector of Police, Bagayam 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. Erode South Police Station Crime No.6/2012 registered under Section 147, 148 and 302 of the Indian Penal Code.
- ii. Vellore North Police Station Crime No.753/2016 registered as man missing @ into under Sections 302 and 201 of the Indian Penal Code @ into under Sections 302, 201, 404, 214, 109 r/w 302 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 14.02.2017 at about 10.00 a.m., one Manikandan, aged 22 years, S/o.Pandiyan, residing at No.1, 3rd Cross Street, Devaraj Nagar, Idaiyansathu, Vellore, as de facto complainant has given a complaint in Bagayam Police Station, wherein, it is alleged to the effect that in the place of occurrence, the detenu has illegally detained him by showing a knife and also forcibly taken away a sum of Rs.500/- from the shirt pocket of the de facto complainant and consequently, a case has been registered in Crime No.44/2017 registered under Sections 341, 294[b], 394 r/w 397 and 506[ii] 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 the wife of the detenu as petitioner.

5. 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.

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

7. Learned Additional Public Prosecutor has contended 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 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 respect of 1st representation, in between column Nos.7 to 9, 4 clear working days are available and in between column Nos.12 and 13, 30 clear working days are available. Likewise, in respect of 2nd

representation, in between column Nos.7 to 9, 6 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 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 13.03.2017 passed in C3/D.O.No.26/2017 by the Detaining Authority against the detenu by name, Dinesh @Veechu Dinesh, aged 32 years, S/o.Sivanandham, 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 VIII)

/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,
Secretariat, Chennai-9.

3.The District Collector and District Magistrate,
Vellore District, Vellore-9.

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

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.488 of 2017

VGII(CO)
NR 14/09/2017