

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.07.2017

CORAM

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

H.C.P.No.508 of 2017

M.Aarifa

.. Petitioner

Vs

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

2.The Commissioner of Police,
Greater Chennai
Vepery
Chennai - 600 007

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, calling for the records relating to the impugned order of detention dated 02.02.2017 in Memo No.BCDFGISSSV No.45 of 2017 passed by the 2nd respondent herein and quash the same and consequently direct the respondents to set forth the detenu Mansoor Alikhan S/o.Mohammed Rafiq, now confined in Central Prison, Puzhal, Chennai at liberty.

For Petitioner : Mr.L.S.M.Hasan Faizar
for M/s.J.Stanlin

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 BCDFGISSSV No.45/2017

dated 02.02.2017 by the Detaining Authority against the detenu by name, Mansoor Alikhan, S/o.Mohammed Rafiq, residing at No.28, Jinnah Street, Alandur, Chennai- 600 016 and quash the same.

2. The Inspector of Police, CCB-1, Crime Branch, Team-X, Video Piracy Cell, Greater Chennai Police, Egmore, Chennai, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred that on 13.01.2017, the Sub-Inspector of Police, Central Crime Branch and others have made a watch in Subway of Beach Railway Station entrance, Burma Bazaar, Rajaji Salai, Chennai and found the detenu in possession of some DVDs of Tamil Films without any licence and consequently, a case has been registered in Crime No.18 of 2017 under Sections 52(A), 68(A), 51 r/w.63(a) and 65 of Copy Right Act, 1957 and also under Section 292(2)(a) of Indian Penal Code 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 materials, has derived a subjective satisfaction to the effect that the detenu has committed the offences mentioned in the First Information Report and ultimately, branded him as a "Video Pirate" 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. Even though the petition has been posted today finally for filing counter on the side of the respondents, counter has not been filed and under such circumstances, this petition is disposed of on the basis of available materials.

5.The learned counsel appearing for the petitioner has contended that the impugned Detention Order has been passed on 02.02.2017, whereas the copies of documents have been furnished to the detenu only on 23.02.2017. Further, on the side of the detenu, a representation has been submitted and the same has not been disposed of without delay and therefore, the Detention Order is liable to be quashed.

6. The learned Additional Public Prosecutor has contended to the effect that the representation given on the side of the detenu has been duly disposed of without delay and further copies of documents have been furnished on 09.02.2017 and therefore, the relief sought for in the petition cannot be granted.

7. 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, 6 clear working days are available and in between column Nos.12 and 13, 3 clear working days are available

and no explanation has been given on the side of the respondents for the delay in disposing of the representation and that the same would affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India.

8. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 02.02.2017 passed in BCDFGISSSV No.45/2017 by the second respondent against the detenu by name, Mansoor Alikhan, S/o.Mohammed Rafiq, residing at No.28, Jinnah Street, Alandur, Chennai- 600 016 is quashed and the detenu is set 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 Secretary to the Government,
Home Prohibition and Excise Department,
Fort St. George
Chennai

2.The Commissioner of Police,
Greater Chennai
Vepery
Chennai - 600 007

3.The Public Prosecutor,
High Court, Madras.

4.The Joint Secretary to Government
Law and Order Secretariat Fort St.George
Chennai-9

5.The Director General of Police
Chennai-4

6.The Superintendent Central Prison
Puzhal Chennai-66

+1 cc to M/s.J.Stalin Advocate sr 47077

H.C.P.No.508 of 2017

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