

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.09.2017

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR.JUSTICE P.KALAIYARASAN

H.C.P.No.511 of 2017

Narayanappa

.... Petitioner

vs.

1.The State of Tamil Nadu,
rep.by the Secretary to Government,
Home Prohibition and Excise Department,
Fort St.George,
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 calling for the records in connection with the order of detention passed by the 2nd respondent dated 10.03.2017, in S.C.No.13/2017, against the petitioner's son Pasavaraj, male, aged 23 years, son of Narayanappa, who is confined at Central Prison, Salem, and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

For Respondents : Mr.V.M.R.Rajentran, Addl.P.P.

ORDER

(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 the records relating to detention order passed in S.C.No.13 of 2017, dated 10.03.2017, by the detaining authority against the detenu, by name Pasavaraj, aged 23 years, S/o Narayanappa, residing at Parandur Village, Mugaloor Post, Hosur Taluk, Krishnagiri District, and quash the same.

2. The Inspector of Police, Denkanikottai 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.

Thally Police Station, Cr.No.47 of 2017, registered under Sections 302 IPC altered into Sections 302, 397 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 04.02.2017, at about 10.00 a.m., one Saravanan, son of Subbarao, residing at Mariyamman Kovil Street, backside of the Police quarters, Denkanikottai, as defacto complainant, has given a complaint in Denkanikottai Police Station, against the detenu, wherein it is alleged to the effect that in the place of occurrence, the detenu and another, have forcibly taken away a sum of Rs.550/- from the pocket of the defacto complainant. Under such circumstances, a case has been registered in Crime No.58 of 2017, under Sections 392 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 derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as a '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. In the counter filed on the side of the respondents it is averred to the effect that most of the averments made in the petition are false. The sponsoring authority has submitted all the relevant materials to the detaining authority. The detaining authority, after considering all the relevant materials and other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as a 'goonda' by way of passing the impugned detention order and the same does not require any interference and therefore, the present petition deserves to be dismissed.

6. The learned counsel appearing for the petitioner has contended to the effect that 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 in question is liable to be quashed.

7. Per contra, the learned Additional Public Prosecutor appearing for the respondents has contended that the representation submitted on the side of the detenu has already been 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 is clearly stated that in between Column Nos.7 to 9, twenty clear working days are available and in between Column Nos.12 and 13, twenty four 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.

In fine, this Habeas Corpus Petition is allowed. The detention order dated 10.03.2017, passed in S.C.No.13/2017, by the detaining authority against the detenu, by name Pasavaraj, aged 23 years, S/o Narayanappa, residing at Parandur Village, Mugaloor Post, Hosur Taluk, Krishnagiri District, is quashed and the respondents are directed to set him at liberty forthwith, unless he is required to be incarcerated in connection with some other case.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

msk

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, Fort St.George, Chennai-9.
- 3.The District Collector & District Magistrate, Krishnagiri District, Krishnagiri
- 4.The Superintendent, Central Prison, Salem.
- 5.The Public Prosecutor, High Court, Madras

SCD(CO)
GN(12/09/2017)

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