

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.07.2017

CORAM

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

H.C.P.No.515 of 2017

Pookadai Anand @ Anandbabu .. Petitioner
S/o.Dhakshinamurthy

Vs

- 1.The State of Tamil Nadu
Rep. By its Secretary to Government
Home, Prohibition and Excise Department
Fort St. George
Chennai - 600 009
- 2.The District Collector and District Magistrate
Cuddalore
Cuddalore District .. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to produce the body of the detenu, namely Pookadai Anand @ Anandbabu, Son of Dhakshinamurthy, aged about 38 years, now confined in Central Prison, Cuddalore before this Court and set him at liberty forthwith, by calling for the records pertaining to the detention order in C3/D.O/02/2017 dated 10.01.2017 passed by the 2nd respondent and quash the same as illegal, incompetent and ultravires.

For Petitioner : Mr.A.Tamil Rajan

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 the records relating to the detention order passed in C3/D.O/02/2017 dated

10.01.2017, against the detenu by name, Pookadai Anand @ Anandbabu, Son of Dhakshinamurthy, aged about 38 years, residing at Murugankoil Street, Sethiathope, Bhuvanagiri Taluk, Cuddalore Taluk and quash the same.

2. The Inspector of Police, Sethiathope Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred that the detenu has involved in the following adverse cases:

i) Eravancheri Police Station, Crime No.20 of 2009, registered under Sections 147, 148, 324, 326, 307 and 302 IPC r/w.Sec. 120B, 149 and 34 of Indian Penal Code; and

ii) Sethiathope Police Station, Crime No.40 of 2015, registered under Sections 147, 148, 294(b), 323, 324 and 506(ii) of Indian Penal Code;

iii) Orathur Police Station, Crime No.84 of 2016, registered under Sections 341, 324 and 307 of Indian Penal Code; and

iv) Panthanallur Police Station, Crime No.115 of 2016, registered under Section 379 of Indian Penal Code.

3. Further, it is averred in the affidavit to the effect that on 04.12.2016, one Manikandan, S/o.Chinnasamy of Kizh Valayamadevi Village, as a defacto complainant, has given a complaint to the Sub-Inspector of Police, Sethiathope, wherein it is alleged that on the date of occurrence, the detenu has shown a deadly weapon to the defacto complainant and taken a sum of Rs.1100/- from his pocket and consequently a case has been registered in Crime No.374 of 2016 under Sections 392, 307 and 506(ii) IPC 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 materials, has derived 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 detenu himself, as petitioner.

5. On the side of the respondents, a counter has been filed, wherein, it is contended 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, has derived a subjective satisfaction to the effect that the detenu is a habitual offender and passed the impugned Detention Order and altogether, the present petition deserves to be dismissed.

6. The learned counsel appearing for the petitioner has contended to the effect that as per the Detention Order, the detenu has been arrested in connection with Crime No.374 of 2016, registered under Sections 392, 397 and 506(ii) IPC on 04.12.2016, whereas after a lapse of 37 days, the Detention Order in question has been passed on 10.01.2017 and no proper explanation has been given on the respondents with regard to such huge delay and further the detenu has been supplied with a booklet, wherein some vital documents are not readable. Under the said circumstances, both the grounds affected the rights of the detenu for giving a representation and therefore, the Detention Order in question is liable to be quashed.

7. The learned Additional Public Prosecutor has submitted that most of the vital documents are readable and no prejudice would be caused to the detenu in the matter of submitting a representation and therefore, the contention urged on the side of the petitioner/detenu is liable to be rejected.

8. It is seen from the booklet that some of the vital documents are not readable. Further it is an admitted fact that in the ground case registered in Crime No.374 of 2016, under Sections 392, 397 and 506(ii) IPC, the detenu has been arrested on 04.12.2016, whereas the Detention Order in question has been passed on 10.01.2017. As rightly pointed out on the side of the petitioner/detenu, there is a delay of 37 days in passing the Detention Order and no explanation has been given on the side of the respondents. Under such circumstances, this Court is of the view that the grounds urged on the side of the petitioner/detenu are sufficient to quash the Detention Order in question.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 10.01.2017 passed in Detention Order No. C3/D.O/D2/2017 by the second respondent against the detenu by name, Pookadai Anand @ Anandbabu, Son of Dhakshinamurthy, aged about 38 years, residing at Murugankoil Street, Sethiathope, Bhuvanagiri Taluk, Cuddalore Taluk is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/--
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

gpa

To

1.The Secretary to Government
Home, Prohibition and Excise Department
Fort St. George
Chennai - 600 009

2.The District Collector and District Magistrate
Cuddalore
Cuddalore District

3.The Public Prosecutor,
High Court, Madras.

4.The Superintendent of Police,
Central Prison,
Cuddalore, (Induplicate for Communication to
Detenue)

5.The Joint Secretary to Government,
Public (Law & Order)
Fort St.George, Chennai-09.

H.C.P.No.515 of 2017

sj(co)
ss(17/7/2017)



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