

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.08.2017

CORAM

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

H.C.P.No.520 of 2017

Karthik

.. Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by its Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The Commissioner of Police,
Chennai Police,
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 entire records leading to the detention of the petitioner's brother Vettu @ Sivakumar, aged 24 years, S/o.Selvaraj, presently lodged in Central Prison, Puzhal at Chennai and has been detained under Act 14/82 as a goonda vide detention order dated 02.02.2017 on the file of the 2nd respondent herein, made in BCDFGISSSV No.43/2017 and quash the same and consequently direct the respondents herein to produce the body and person of the said detenu before this Hon'ble Court and thereafter set him at liberty.

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

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 records relating to the detention order passed in BCDFGISSSV No.43/2017 dated 02.02.2017 by the Detaining Authority against the detenu by name, Vettu @ Sivakumar, aged 24 years, S/o.Selvaraj, residing at Tirupathi Nagar, 1st Street, Nallur Medu, Somangalam, Chennai and quash the same.

2. The Inspector of Police, S-1 St. Thomas Mount 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. S-9 Pazhavanthangal Police Station Crime No.1592/2016 registered under Section 379 of IPC.
- ii. S-4 Nandambakkam Police Station Crime No.1582/2016 registered under Section 379 of IPC.

3. Further, it is averred in the affidavit that on 30.11.2016, one Natarajan, S/o.Vijayaraj, residing at No.5/14, Seven Well Street, Butt Road, Chennai-16, as de facto complainant has given a complaint in S-1 St. Thomas Mount Police Station, wherein, it is averred to the effect that in the place of occurrence, the present detenu and his associates have unlawfully restrained the de facto complainant and by showing a deadly weapon, avulsed a sum of Rs.1,600/- and also a gold ring from the de facto complainant and consequently, a case has been registered in Crime No.1649/2016 under Sections 341, 294[b], 323, 427, 397 and 506[ii] of 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 brother of the detenu as petitioner.

5. On the side of the respondents, counter has not been filed and

therefore, the present petition has been disposed of 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, a representation has been submitted to the concerned authorities and the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. Learned Additional Public Prosecutor has contended to the effect that the representation 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 is clearly stated that in between column Nos.7 to 9, 3 clear working days are available and in between column Nos.12 and 13, 19 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

02.02.2017 passed in BCDFGISSSV No.43/2017 by the Detaining Authority against the detenu by name, Vettu @ Sivakumar, aged 24 years, S/o.Selvaraj, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

[A.S., J.] [P.K., J.]
18.08.2017

gya

To

1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.

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

3.The Commissioner of Police,
Chennai Police,
Vepery, Chennai-7.

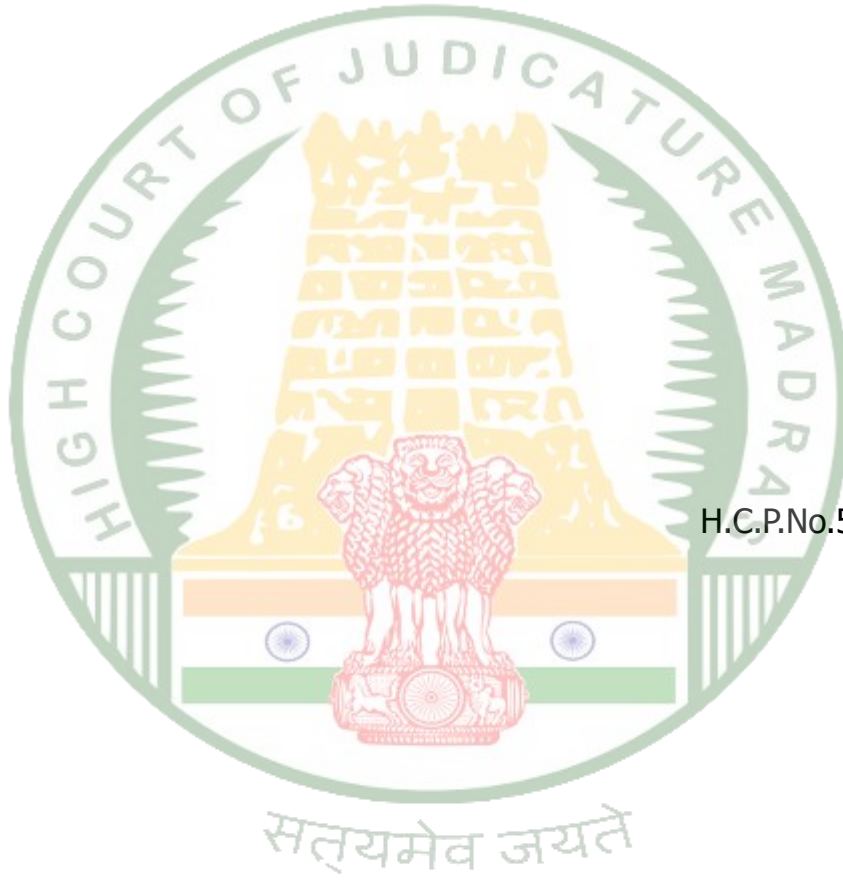
4.The Superintendent,
Central Prison,
Puzhal, Chennai.

[in duplicate for communication to the detenu]

5.The Public Prosecutor,
High Court, Madras.

A.SELVAM, J.
and
P.KALAIYARASAN, J.

gya



H.C.P.No.520 of 2017

WEB COPY

18.08.2017