

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:28.08.2017

CORAM:

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

H.C.P.No.525 of 2017

Anandaveni

.... Petitioner

vs.

1.The Government of Tamil Nadu,
rep.by its Secretary, Home,
Prohibition and Excise (XVI)
Department,
Fort St.George,
Chennai-600 009.

2.The Commissioner of Police,
Salem City

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records in C.M.P.No.13/GOONDA/SALEM CITY/2017, dated 24.03.2017, on the file of the 2nd respondent herein and quash the same and direct the respondents herein to produce the body of petitioner's husband Sakthivel, aged 42 years, son of Arumugam, now confined in Central Prison, Coimbatore, before this Court and set him at liberty.

For Petitioner : Mr.R.Subhadra Devi

For Respondents : Mr.V.M.R.Rajentren, 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 C.M.P.No.13/Goonda/Salem City/2017, dated 24.03.2017, by the detaining authority against the detenu, by name Sakthivel, aged 42 years, S/o Arumugam,, No.24, Bharathi Street, Veerakeralam, Vadavalli, Coimbatore District and quash the same.

2.The Inspector of Police, Ammapet Police Station, as sponsoring authority, has submitted an affidavit to the

detaining authority, wherein it is averred to the effect on 27.11.2016, one Tmt.Vaishnavi, Village Administrative Officer, has given a written complaint in Ammapet Police Station, wherein it is stated that her menial has informed about the dead body of a person, aged 35 years, with bleeding injuries and the same has been registered in Crime No.596 of 2016 under Section 302 of the Indian Penal Code. The Inspector of Police has taken up investigation and subsequently, the present detenu and other accused have surrendered themselves and ultimately requested the detaining authority to invoke Act 14/1982 against the detenu.

3.The detaining authority, after considering the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu has committed a grave offence punishable under Section 302 of the Indian Penal Code 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 wife of the detenu, as petitioner.

4.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 perusing all the relevant materials and other connected documents, has derived subjective satisfaction to the effect that the detenu has committed a grave offence punishable under Section 302 of the Indian Penal Code 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.

5.The learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been submitted, but the same has not been disposed of without delay and therefore, the detention order in question is liable to be quashed.

6.Per contra, the learned Additional Public Prosecutor appearing for the respondents 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 petitioner is liable to be rejected.

7.On the side of the respondents, a proforma has been submitted, wherein it is clearly stated that in between Column Nos.7 to 9, two clear working days are available and in between Column Nos.12 and 13, twenty five 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 24.03.2017, passed in C.M.P.No.13/Goonda/Salem City/2017, by the detaining authority against the detenu, by name Sakthivel, aged 42 years, S/o Arumugam, residing at No.24, Bharathi Street, Veerakeralam, Vadavalli, Coimbatore 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/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. 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 (XVI) Department, Fort St.George, Chennai-9.
3. The Commissioner of Police, Salem City.
4. The Superintendent, Central Prison, Coimbatore.
5. The Public Prosecutor, High Court, Madras

+1cc to M/s.R.Subadra Devi, Advocate in sr.no.61432

H.C.P.No.525 of 2017

SR(CO)
NR 28/08/2017