

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.548 of 2017

A.Sekar

.... Petitioner

vs.

1.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-7.

2.The Principal Secretary to Government
of Tamil nadu,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-9

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records in No.70/BCDFGISSSV/2017, on the file of the first respondent, quash the detention order 20.03.2017 and direct the production of the detenu Dhasvanth, aged 22, son of Sekar, presently detained at the Central Prison, Puzhal, under the Tamil Nadu Act, 14 of 1982 as a Goonda, before this Court and set him at liberty.

For Petitioner : Mr.B.Kumar,Sr.counsel
For Mr.K.Balasubramaniam

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 Memo No.70/BCDFGISSSV/2017, dated 20.03.2017, by the detaining authority against the detenu, by name Dhasvanth, aged 22 years, S/o Sekar, residing at S3, Nigitha Flats, No.28, 10th Street, Madha Nagar, Mathanandhapuram, Chennai-600 128 and quash the same.

2. The Inspector of Police, Mangadu Police Station, as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is averred to the effect that on 05.02.2017, one Babu, aged 38 years, son of Apparao, residing at F2-Nikitha Apartments, No.28, 10th Street, Madha Nagar Extension-2, Madhanandhapuram, Chennai-125, as defacto complainant, has given a complaint to the Mangadu Police Station, wherein it is alleged to the effect that from 05.02.2017, his daughter, by name Hasini, has been missing. Under such circumstances, a case has been registered in Crime No.285 of 2017, as 'minor girl missing' and subsequently, the Inspector of Police has arrested the detenu and on the basis of confession alleged to have been given by him, the dead body of the said Hasini was found and thereafter, Section of Law has been changed into Sections 302 and 201 of the Indian Penal Code 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 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.

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 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.

5. The learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, two representations have been submitted and the same have 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 that the representations submitted on the side of the detenu have 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 respect of the first representation, in between Column Nos.7 to 9, three clear working days are available and in between Column Nos.11 to 13, twenty one clear working days are available and in respect of the second representation, in between Column Nos.7 to 9, one clear working day is available and in between Column Nos.11 to 13, twenty one 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 20.03.2017, passed in No.70/BCDFGISSSV/2017, by the detaining authority against the detenu, by name Dhasvanth, aged 22 years, S/o Sekar, residing at S3, Nigitha Flats, No.28, 10th Street, Madha Nagar, Mathanandhapuram, Chennai-600 128, 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 (CS V)

/true copy/

Sub Asst. Registrar

To

1. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-7.
2. The Principal Secretary to Government
of Tamil nadu,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-9
3. The Superintendent,
Central Prison,
Puzhal, Chennai.
- 4.The Joint Secretary to Government of
Tamil Nadu, Public (Law and Order)
Department,
Secretariat, Chennai-9.

5. The Public Prosecutor,
High Court, Madras

+lcc to Mr.K.Balasubramaniam, Advocate in sr.no.66130

H.C.P.No.548 of 2017

CP(CO)
NR 12/09/2017



WEB COPY