

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.07.2017

CORAM

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

H.C.P.No.566 of 2017

Mangapathi

.. Petitioner

Vs

1.State of Tamil Nadu

Rep. By its Secretary to Government  
Home, Prohibition and Excise Department  
Fort St.George  
Chennai

2.The District Magistrate and District Collector  
Tiruvallur District  
Tiruvallur

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for records of the detention made in BCDFGISSSV No.12/2017 dated 07.03.2017 passed by the 2<sup>nd</sup> respondent and set aside the same and direct the respondents to produce the detenu before this Court and set the detenu Kiransai @ Kiran, aged 31 years, S/o.Mangapathi, confined at Central Prison, Puzhal, at liberty.

For Petitioner : Mr. N.R.Ilango  
Senior Counsel  
for R.Vivekananthan

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 BCDFGISSSV No.12/2017

dated 07.03.2017, against the detenu by name, Kiransai @ Kiran, aged 31 years, S/o.Mangapathi, residing at No.18, Alamaram Street, Tiruthani Town, Tiruvallur District and quash the same.

2.The Inspector of Police, Thiruthani 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 case:-

1.Thiruthani Police Station, Crime No.253/2016, registered under Sections 341 and 323 of Indian Penal Code;

3. Further, it is averred in the affidavit that on 09.10.2016, one P.Madhan, S/o.Purushothaman, residing at No.59, Dr.Radhakrishnan Street, Tiruthani, Tiruvallur District and Taluk, as defacto complainant, has given a complaint to the Inspector of Police, Thiruthani, wherein it is averred to the effect that in the place of occurrence, the present detenu and others have murdered one Arumugam and also threatened the general public. Under the said circumstance, a case has been registered in Crime No.640 of 2016 under Sections 120(B), 341, 324, 302 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 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 father of the detenu, as petitioner.

5. On the side of the respondents, counter has not been filed. Under such circumstance, the present Habeas Corpus Petition is disposed of on merits.

6. The learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, two representations have been submitted to the concerned authorities, but the same have not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7.The learned Additional Public Prosecutor 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.

8. On the side of the respondents, a proforma has been submitted, wherein, it has been clearly stated that in respect of first representation, in between column Nos.7 and 9, 17 clear working days and in between Column Nos.12 and 13, 17 clear working days are available and likewise, in respect of second representation, in between column numbers 7 and 9, 12 clear working days are available and in between column Nos.12 and 13, 17 clear working days are available and no explanation has been given on the side of the respondents with regard to such huge delay and that 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 Habeas Corpus Petition is allowed and the Detention Order dated 07.03.2017 passed in B.C.D.F.G.I.S.S.S.V.No.12 of 2017 by the second respondent against the detenu by name, Kiransai @ Kiran, aged 31 years, S/o.Mangapathi, residing at No.18, Alamaram Street, Tiruthani Town, Tiruvallur District is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-  
Asst.Registrar (CS III )

/true copy/

Sub Asst. Registrar

gpa

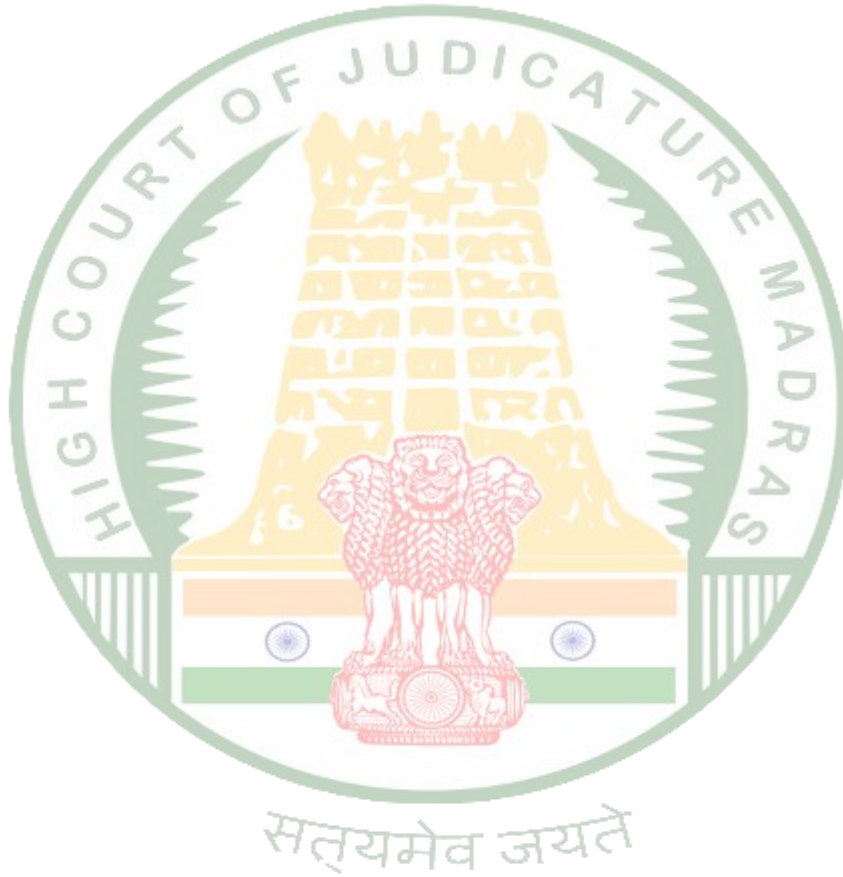
To

1. The Secretary to Government  
Home, Prohibition and Excise Department  
Fort St. George  
Chennai - 600 009
2. The District Magistrate and District Collector  
Tiruvallur District  
Tiruvallur
3. The Superintendent  
Central Prison Ii, Puzhal  
Chennai - 66

4. The Public Prosecutor,  
High Court, Madras.
5. The Joint Secretary to Government,  
Public (Law & Order)  
Fort St.George, Chennai-9

H.C.P.No.566 of 2017

NR 31/07/2017



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