

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.585 of 2017

M.Syed Saali Jailani .. Petitioner

Vs

1.State of Tamil Nadu rep. by its  
Principal Secretary,  
Department of Home, Prohibition and Excise Department,  
Secretariat, Chennai-9.

2.The Commissioner of Police,  
Greater Chennai, Chennai-7.

3.The State rep by  
The Inspector of Police,  
S-13, Chrompet Police Station,  
Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records in BCDFGISSSV No.133/2017 dated 06.04.2017 on the file of the 2<sup>nd</sup> respondent and quash the detention order as illegal and direct the respondents to produce the detenu Moideen Pichai, aged 52 years, S/o.Jailani, now confined at Central Prison, Puzhal, Chennai and set him at liberty.

For Petitioner : Mr.S.Senthilvel  
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 records relating to the detention order passed in BCDFGISSSV No.133/2017 dated 06.04.2017 by the Detaining Authority against the detenu by name, Moideen Pichai, aged 52 years, S/o.Jailani, residing at No.12, Ambedkar Street, Ramya Nagar, Madhanandapuram, Mugalivakkam, Chennai-125 and quash the same.

2. The Inspector of Police, S-13 Chrompet 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 case :

- i. S-5 Pallavaram Police Station Crime No.2883/2016 registered under Sections 147, 363, 342, 323, 294[b], 384, 506[ii] of IPC @ 147, 364A, 342, 323, 294[b], 384, 506[ii] and 202 of IPC.

3. Further, it is averred in the affidavit that on 12.01.2017, one Abdul Khadar, S/o.Khaja Moideen, as de facto complainant has given a complaint in S-13 Chrompet Police Station, wherein, it is alleged to the effect that in the place of occurrence, the present detenu and others have formed unlawful assembly and indiscriminately assaulted the son of the de facto complainant and due to their overt act, he passed away and consequently, a case has been registered in Crime No.77/2017 under Sections 147, 148 and 302 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 son of the detenu as petitioner.

5. On the side of the respondents, counter has not been filed. Under such circumstances, the present petition is disposed of on the basis of the available materials on record.

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, two representations are submitted to the concerned authorities and

the same have 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 representations submitted on the side of the detenu are 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 respect of 1st representation, in between column Nos.7 and 9, 4 clear working days are available and in between column Nos.12 and 13, 19 clear working days are available. Likewise, in respect of 2nd representation, in between column Nos.7 and 9, 7 clear working days are available and in between column Nos.12 and 13, 23 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 06.04.2017 passed in BCDFGISSSV No.133/2017 by the Detaining Authority against the detenu by name, Moideen Pichai, aged 52 years, S/o.Jailani is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

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To

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

2.The Principal Secretary to Government of Tamil Nadu,  
Department of Home, Prohibition and Excise Department,  
Secretariat, Chennai-9.

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

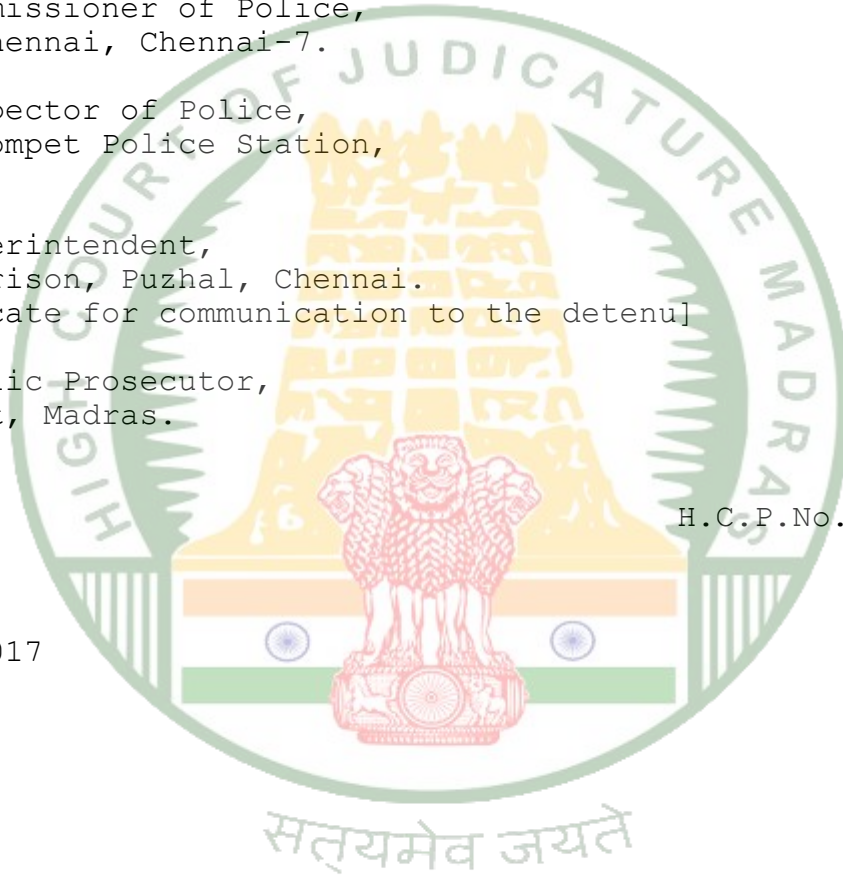
4.The Inspector of Police,  
S-13, Chrompet Police Station,  
Chennai.

5.The Superintendent,  
Central Prison, Puzhal, Chennai.  
[in duplicate for communication to the detenu]

6.The Public Prosecutor,  
High Court, Madras.

H.C.P.No.585 of 2017

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