

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.587 of 2017

P.Uma Mageswari .. Petitioner /
Wife of the Detenu

Vs

1.The Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.

2.The Commissioner of Police,
Greater Chennai,
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 records in connection with the order of detention passed by the 2nd respondent dated 13.02.2017 in No.63/BCDFGISSSV/2017 against the petitioner's husband Prabhakaran, aged 40 years, S/o.Paramanandam, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.V.Paarthiban
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 No.63/BCDFGISSSV/2017 dated 13.02.2017 by the Detaining Authority against the detenu by name, Prabhakaran, aged 40 years, S/o.Paramanandam and quash the same.

2. The Inspector of Police, M-7 Manali New Town 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. M-7 Manali New Town Police Station Crime No.1210/2016 registered under Section 379 of IPC.
- ii. M-7 Manali New Town Police Station Crime No.1943/2016 registered under Section 397 of IPC.

3. Further, it is averred in the affidavit that on 26.12.2016, one Raghupathy, S/o.Amavasai, as de facto complainant has given a complaint in Manali New Town Police Station, wherein, it is alleged to the effect that in the place of occurrence, the present detenu and another have unlawfully attacked the de facto complainant and forcibly taken away a sum of Rs.500/- and consequently, a case has been registered in Crime No.1951/2016 under Sections 341, 294[b], 336, 427, 392 r/w 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 wife of the detenu as petitioner.

5. Even though several adjournments have been granted, 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, 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. Per contra, 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 put forth 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 and 9, 14 clear working days are available and in between column Nos.12 and 13, 25 clear working days are available and no explanation has been given on the side of the respondents with regard to such huge 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 13.02.2017 passed in No.63/BCDFGISSSV/2017 by the Detaining Authority against the detenu by name, Prabhakaran, aged 40 years, S/o.Paramanandam is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

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 the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.

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

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

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.587 of 2017

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