

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.593 of 2017

K.Murugasaraswathi Petitioner/Mother of
detenue

vs.

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
- 2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-600 007 ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records in connection with the order of detention passed by the 2nd respondent dated 31.03.2017, in Memo No.98/BCDFGISSSV/2017 against the petitioner's son Arun Kumar, son of Dharmalingam, aged about 24 years, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.V.Paarthiban

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 BCDFGISSSV No.98/2017, dated 31.03.2017, by the detaining authority against the detenu, by name Arunkumar, aged 24 years, S/o Dharmalingam, residing at No.48, first floor, Halls Road, Egmore, Chennai-600 008 and quash the same.

2. The Inspector of Police, S-12, Chitlapakkam 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. S-12, Chitlapakkam Police Station, Crime

No.1475 of 2016, registered under Sections 341 and 302 of the Indian Penal Code.

ii.S-15, Selaiyur Police Station, Cr.No.193 of 2017, registered under Sections 341, 294(b), 384 and 506(ii) of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 02.02.2017, one Suresh, aged 32 years, son of Krishnan, residing at No.20/70, V.O.C.Street, Aminjikarai, Chennai, as defacto complainant, has given a complaint to the Chitlapakkam Police Station, wherein it is alleged to the effect that in the place of occurrence, the detenu has unlawfully deterred the defacto complainant and by way of showing a deadly weapon (kinfe), the detenu has taken away a sum of Rs.5000/- from the pant pocket of the defacto complainant and also threatened him. Under such circumstances, a case has been registered in Crime No.240 of 2017, under Sections 341, 294(b), 392 read with 397, 336 and 506 (ii) of the Indian Penal Code 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 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 mother of the detenu, as petitioner.

5.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.

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 and the same have not been disposed of without delay and therefore, the detention order in question is liable to be quashed.

7. 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.

8. 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, eight clear working days are available and in between Column Nos.12 and 13,

thirty clear working days are available and in respect of the second representation, in between Column Nos.7 to 9, eight clear working days are available and in between Column Nos.12 and 13, fifteen 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 31.03.2017, passed in BCDFGISSSV No.98/2017, by the detaining authority against the detenu, by name Arunkumar, aged 24 years, S/o Dharmalingam, residing at No.48, First Floor, Halls Road, Egmore, Chennai-600 008, 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

To

- 1.The Joint Secretary to Government of
Tamil Nadu, Public (Law and Order)
Department,
Secretariat, Chennai-9.
- 2.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
- 3.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-600 007
- 4.The Superintendent,
Central Prison,
Puzhal, Chennai.
- 5.The Public Prosecutor,
High Court, Madras

+1cc to Mr.N.Baskaran,Advocate sr.61481

H.C.P.No.593 of 2017

sr(co)
SS(28/8/2017)

<https://hcservices.courts.gov.in/hcservices/>