

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.09.2017

CORAM

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

H.C.P.No.610 of 2017

M.Suseela

.. Petitioner

Vs

1. State Rep. by
The Secretary to the Government
Home, Prohibition and Excise Department
Secretariat
Chennai- 600 009

2.The District Collector and District Magistrate
Kanchipuram District
Kanchipuram

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, directing the respondents to produce the detenu viz., Manoharan, S/o.Kuppan who is now detained in Central Prison, Puzhal, Chennai in pursuance of the detention order passed by the 2nd respondent dated 31.03.2017 in BCDFGISSSV No.24 of 2017 before this Court, call for the records, set aside the order and set the detenu at liberty forthwith.

For Petitioner : Mr.R.Ganesh

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.24/2017 dated 31.03.2017, against the detenu by name, Manokaran, aged 49

years, S/o.Kuppan, residing at 243, Periyar Street, Ayapakkam Periya Colony, Thirukalukundram Taluk, Kancheepuram District and quash the same.

2. The Inspector of Police, Sadras 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) Sadras Police Station, Crime No.400 of 2016, registered under Section 4(1)(a) of Tamil Nadu Prohibition Act, 1937.

ii) Sadras Police Station, Crime No.449 of 2016, registered under Section 4(1)(a) of Tamil Nadu Prohibition Act, 1937; and

iii) Sadras Police Station, Crime No.56 of 2017, registered under Section 4(1)(aaa), 4(1-A) of Tamil Nadu Prohibition Act r/w. 6 & 11 of Rectified Spirit Rules, 2000.

3. Further it is averred in the affidavit that on 23.02.2017 at about 06.30 hours, the Inspector of Police, Sadras Police Station on the basis of information received, he and other police officials have intercepted the detenu and others and ultimately found that the the detenu is in possession of rectified spirit without having licence and consequently, a case has been registered in Crime No.74 of 2017 under Sections 4(1)(i), 4(1)(aaa), 4(1-A) Tamil Nadu Prohibition Act r/w. 6 & 11 of Rectified Spirit Rules, 2000 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 derived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as "Bootlegger" 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. In the counter filed on the side of the respondents it has been contended to the effect that most of the averments made in the petition are false. The Sponsoring Authority has supplied all the relevant materials to the Detaining Authority. The Detaining Authority after perusing all the materials, has arrived to a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as "Bootlegger" by way of passing the impugned Detention Order and the same does not call for 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, a representation has been given, but the same has 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 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 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 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 and no explanation has been given on the side of the respondents with regard to such 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 31.03.2017 passed in BCDFGISSSV No.24 of 2017 by the second respondent against the detenu by name, Manokaran, aged 49 years, S/o.Kuppan, 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 VI)

/true copy/

Sub Asst. Registrar

gpa

To

- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
2. The Secretary to the Government
Home, Prohibition and Excise Department
Secretariat
Chennai- 600 009
- 3.The District Collector and District Magistrate
Kanchipuram District
Kanchipuram
- 4.The Superintendent
Central Prison
Puzhal, Chennai

5.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.R.Ganesh,Advocate sr.64631

H.C.P.No.610 of 2017

gmI (co)
ss(6/9/2017)



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