

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.09.2017

CORAM

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

H.C.P.No.618 of 2017

Pachamuthu .. Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Home, Prohibition and Excise [XVI] Department,
Fort St. George, Secretariat,
Chennai-9.

2.The District Collector and District Magistrate,
Salem,
Salem District.

.. 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 26.03.2017 in his office Ref. C.M.P.No.18/SEXUAL OFFENDER/C2/2017 against the petitioner's son by name Tamil @ Tamilarasan, aged 24 years, S/o.Pachamuthu, now confined at Central Prison, Salem, Salem District the above said detenu before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel for

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 C.M.P.No.18/SEXUAL

OFFENDER/C2/2017 dated 26.03.2017 by the Detaining Authority against the detenu by name, Tamil @ Tamilarasan, aged 24 years, S/o.Pachamuthu, residing near Pallikkoodam, Selliampalayam, Narasingapuram Post, Attur Taluk, Salem District and quash the same.

2. The Inspector of Police, All Women Police Station, Attur Police Station as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that on 03.02.2017 at about 20.00 hrs, one Mariammal, residing at School Street, I Ward, Narasingapuram, Attur, as de facto complainant has given a complaint to the Sub Inspector of Police, All Women Police Station, Attur, wherein, it is averred to the effect that on 31.01.2017, the present detenu and one Jeeva @ Jayachandran have kidnapped the minor daughter of the de facto complainant. Further, it is stated in the complaint that the present detenu has gagged the mouth of the victim and another accused by name Jeeva @ Jayachandran has committed sexual offence on the body of the victim. Under the said circumstances, a case has been registered in Crime No.4/2017 under Sections 366[A], 506[i] of the Indian Penal Code r/w Sections 6 and 5[g] of Protection of Children from Sexual Offences Act, 2012 and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

3. The Detaining Authority after considering the averments made in the affidavit and other connected documents, has arrived at a subjective satisfaction that the detenu has committed a heinous offence and ultimately, branded him as sexual offender 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.

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

5. 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.

6. 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 petitioner is liable to be rejected.

7. On the side of the respondents, a proforma has been submitted, wherein, it is clearly stated that in between column Nos.7 to 9, 9 clear working days are available and in between column Nos.12 and 13, 20 clear working days are available and no explanation has been given on the side of the respondents for 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.

8. In fine, this petition is allowed. The Detention Order dated 26.03.2017 passed in C.M.P.No.18/SEXUAL OFFENDER/C2/2017 by the Detaining Authority against the detenu by name, Tamil @ Tamilarasan, aged 24 years, S/o.Pachamuthu 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 V)

/true copy/

Sub Asst. 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 Secretary to the Government of Tamil Nadu,
Home, Prohibition and Excise [XVI] Department,
Fort St. George,
Secretariat, Chennai-9.
- 3.The District Collector and District Magistrate,
Salem, Salem District.
- 4.The Superintendent,
Central Prison, Salem.
[in duplicate for communication to the detenu]

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.618 of 2017

VR(11/09/2017)



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