

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.08.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE N.AUTHINATHAN

H.C.P.No.654 of 2017

Sulochana

.. Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by the Secretary
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The Commissioner of Police,
The Commissioner Office,
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 relating tot he detention order in BCDFGISSSV No.96/2017 dated 31.03.2017 passed by the 2nd respondent under Tamil Nadu Act 14/1982 and set aside the same and direct the respondents to produce the petitioner's son Iman @ Immanuvel, aged 23 years, S/o.Subbarao, now confined in Central Prison, Puzhal, Chennai, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.D.Saravana Kumar

For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

सत्यमेव जयते
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.96/2017 dated 31.03.2017 by the Detaining Authority against the detenu by name, Iman @ Immanuvel, aged 23 years, S/o.Subbarao, residing at No.34, Model Line 8th Street, Old Washermenpet, Chennai-21 and quash the same.

2. The Inspector of Police, J-8 Neelankarai 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. J-8 Neelankarai Police Station Crime No.404/2017 registered under Sections 147, 148, 341, 294[b], 307 and 506[iii] of the Indian Penal Code.
- ii. J-8 Neelankarai Police Station Crime No.718/2017 registered under Section 379 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 05.03.2017, one Panneerselvam, aged 38 years, S/o.Mani, as de facto complainant has given a complaint in J-8 Neelankarai Police Station, wherein, it is alleged to the effect that in the place of occurrence, the detenu and others have attacked him by using a knife and thereby caused injuries and due to that, a case has been registered in Crime No.776/2017 under Sections 147, 148, 341, 294[b], 307, 336, 427 and 506[iii] of the Indian Penal Code and 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 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 mother of the detenu as petitioner.

5. On the side of the respondents, counter has not been filed and therefore, the present Habeas Corpus petition has been disposed of on merits on the basis of 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, but the same are not disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. Learned Additional Public Prosecutor has also contended that the representations submitted on the side of the detenu are 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 is clearly stated that in respect of 1st representation, in between column Nos.7 to 9, 9 clear working days are available and in between column Nos.12 and 13, 24 clear working days are available. Likewise, in respect of 2nd representation, in between column Nos.7 to 9, 1 working day is available and in between column Nos.12 and 13, 21 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 31.03.2017 passed in BCDFGISSSV No.96/2017 by the Detaining Authority against the detenu by name, Iman @ Immanuvel, aged 23 years, S/o.Subbarao is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

s/d-

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 Secretary to Government,
Prohibition and Excise Department [Home],
Fort St. George, Chennai-9.
- 3.The Commissioner of Police,
The Commissioner Office,
Vepery, Chennai-7.
- 4.The Superintendent,
Central Prison, Puzhal, Chennai.
[in duplicate for communication to the detenu]
- 5.The Public Prosecutor,
High Court, Madras.

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SP(31/08/2017)