

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2017

CORAM

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

H.C.P.No.655 of 2017

Kalavathy

... Petitioner

Vs

1. State of Tamil Nadu  
Rep. By its Secretary  
Home Prohibition and Excise Dept.  
Fort St. George  
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, to call for the entire records, relating to petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 23.03.2017 on the file of the second respondent herein made in proceedings No.76/BCDFGISSSV/2017 and quash the same as illegal and consequently direct the respondents herein to produce the detenu Siva S/o.Anandan, aged 28 years, confined at Central Prison, Puzhal, Chennai before this Court and set the petitioner's son at liberty from detention, now petitioner's husband detained at Central Prison, Puzhal, Chennai - 600 066.

For Petitioner : Mr.S.Arunkumar

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 BCDFGISSSV No. 76/2017

dated 29.03.2017 by the Detaining Authority against the detenu by name, Siva, aged 28 years, S/o.Anandan, No.14/23, First Cross Street, Kattu Koil Street, Mylapore, Chennai - 600 004 and quash the same.

2. The Inspector of Police, R-2 Kodambakkam Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred effect that one Srinivasan, aged 30 years, S/o.Panneerselvam, residing at No.30/48, Kamaraj Colony, 2nd Street, Kodambakkam, Chennai -24, as defacto complainant, has given a complaint in R-2 Kodambakkam Police Station wherein it is stated that on 20.01.2017 during night hours, the present detenu has deterred the defacto complainant and others by way of saying that the defacto complainant and others should not adduce evidence against the detenu and also attempted to murder them. Under such circumstance, a case has been registered in Crime No.143 of 2017 under Section 307 and 506(ii) of Indian Penal Code and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

3. 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 has committed a grave offence 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.

4. On the side of the respondents, counter has not been filed and therefore, the present petition is disposed of on merits on the basis of materials available 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 submitted, 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 equally contended that the representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the contention urged 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 and 9, 9 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 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 23.03.2017 passed in BCDFGISSSV No.76/2017 by the Detaining Authority against the detenu by name, Siva, aged 28 years, S/o.Anandan, No.14/23, First Cross Street, Kattu Koil Street, Mylapore, Chennai - 600 004, 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 VI)

//True Copy//

Sub Assistant Registrar

gpa

To

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

+1cc to Mr.S.N.Arunkumar, Advocate, S.R.No.60711

H.C.P.No.655 of 2017

RJ(CO)  
CA(23/08/2017)