

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2017

CORAM

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

H.C.P.No.666 of 2017

B.Devi

... Petitioner

Vs

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George, Chennai-9.

2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-7.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to direct the 2nd respondent to cause production of body and person of the petitioner's husband, the detenu Balaji, aged 28 years, S/o.Jeeva, who is now confined in Central Prison, Puzhal, Chennai-66, before this Hon'ble Court, set him at liberty, by setting aside the order of detention passed by the 2nd respondent in his Detention Order No.53/BCDFGISSSV/2017 dated 13.02.2017.

For Petitioner : Mr.S.Kingston Jerald

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 Memo No.53/BCDFGISSSV/2017 dated 13.02.2017 by the Detaining Authority against the detenu by name, Balaji, aged 28 years, S/o.Jeeva, residing at No.244, J-Block, Selliamman Koil Street, VOC Nagar, Tondiarpet, Chennai-81 and quash the same.

2. The Inspector of Police, Semmancherry 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-9 Thuraipakkam Police Station Crime No.1003/2016 registered under Section 380 of the Indian Penal Code.
- ii. J-9 Thuraipakkam Police Station Crime No.1002/2016 registered under Section 380 of the Indian Penal Code.
- iii. J-9 Thuraipakkam Police Station Crime No.1010/2016 registered under Section 380 of the Indian Penal Code.
- iv. J-10 Semmancherry Police Station Crime No.726/2016 registered under Section 380 of the Indian Penal Code.
- v. J-10 Semmancherry Police Station Crime No.1413/2016 registered under Section 380 of the Indian Penal Code.
- vi. J-10 Semmancherry Police Station Crime No.1956/2016 registered under Section 380 of the Indian Penal Code.
- vii. J-9 Thuraipakkam Police Station Crime No.2314/2016 registered under Sections 457 and 380 of the Indian Penal Code.

3. Further, it is averred in the affidavit that one Vinoth Kumar, aged 27 years, S/o.Duraisamy, residing at No.10/31, Tamil Nadu Housing Board, Sholinganallur, Chennai-119, as de facto complainant has given a complaint, wherein, it is alleged that on 15.12.2016, in the place of occurrence, the detenu has avulsed a bag from the de facto complainant and the same contains a laptop and consequently, a case has been registered in Crime No.2358/2016 under Sections 341, 294[b], 397 and 506 [ii] 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 perusing 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 wife 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, 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.

7. Learned Additional Public Prosecutor has also 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.

8. On the side of the respondents, a proforma has been submitted, wherein, it is clearly stated that in between column Nos.12 and 13, 27 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 13.02.2017 passed in Memo No.53/BCDEGISSSV/2017 by the Detaining Authority against the detenu by name, Balaji, aged 28 years, S/o.Jeeva 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

gya

To

1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.

2.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai-9.

3.The Commissioner of Police,
Greater Chennai, Vepery, Chennai 07.

4.The Superintendent,
Central Prison, Puzhal, Chennai.
[in duplicate for communication to the detenu]

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.666 of 2017

MN(CO)
CA(30/08/2017)