

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.07.2017

CORAM

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

H.C.P.No.67 of 2017

Amutha .. Petitioner/Mother of
the Detenue

Vs

- 1.The Principal Secretary to Government,
Home Prohibition and Excise Department,
Secretariat
Chennai - 600 009
- 2.The District Collector and District Magistrate
The Office of Collectorate, Thiruvarur District
Thiruvarur- Post and 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 second respondent dated 22.12.2016 passed in C.O.C.No.24 of 2016 against the petitioner's son, Arunraj, S/o.Nagendran, the detenu herein, now confined at Central Prison, Tiruchirappalli and set aside the same and direct the respondents to produce the detenu Thiru.Arunraj, S/o.Nagendran, aged about 24 years before this Court and set him at liberty.

For Petitioner : Mr.D.Veerasekaran

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

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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.O.C.No.24 of 2016 dated 22.12.2016 by the Detaining Authority against the detenu by name, Arunraj, S/o.Nagendran and quash the same.

2. The Inspector of Police, Tiruvarur Town Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred that the detenu has involved in the following adverse cases:-

- i. Tiruvarur Town Police Station, Crime No.425/2016, registered under Section 392 of Indian Penal Code; and
- ii. Tiruvarur Town Police Station, Crime No.447/2016, registered under Section 392 of Indian Penal Code.

3. Further, it is averred in the affidavit that on 02.11.2016, at about 11 hours, one Annadurai, S/o.Packirisamy, as defacto complainant, has lodged a complaint against the detenu and the same has been registered in Crime No.519/2016 under Section 397 of 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 also all the materials supplied to him, has arrived at a subjective satisfaction to the effect that the detenu is in the habit of committing crimes one after another and ultimately, branded the detenu 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, a counter has been filed, wherein, it has been contended inter alia to the effect that most of the averments mentioned in the affidavit are false and the Sponsoring Authority has submitted all the particulars to the Detaining Authority and the Detaining Authority after considering all the materials supplied to him, 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 therefore, the impugned detention order does not call for any interference altogether and the same deserves to be dismissed.

6. Learned counsel appearing for the petitioner has contended to the effect that a representation has been given to the concerned authorities, 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 represented to the effect that the representation submitted by the detenu has been duly disposed of without delay and therefore, the present petition deserves to be dismissed.

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, 6 clear working days are available and in between column Nos.12 and 13, 2 clear working days are available and no explanation has been given on the side of the respondents for the delay in disposing of the representation and that the same would affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 22.12.2016 passed in C.O.C.No.24 of 2016 by the second respondent against the detenu by name, Arunraj, S/o.Nagendran is quashed and the detenu is set at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

gpa
To

- 1.The Principal Secretary to Government,
Home Prohibition and Excise Department,
Secretariat
Chennai - 600 009
- 2.The District Collector and District Magistrate
The Office of Collectorate, Thiruvarur District
Thiruvarur- Post and District
- 3.The Joint Secretary,
Public (Law & Order),
Fort St.George,Ch-9.
- 4.The Superintendent,Central Prison,
Tiruchirappalli.
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.67 of 2017

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ss(5/7/2017)