

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:14.09.2017

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR.JUSTICE M.DHANDAPANI

H.C.P.No.701 of 2017

S.Santhakumari

.... Petitioner

vs.

1.The State, rep.by
its Secretary,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai-600 009.

2.The Commissioner of Police,
Office of the Commissioner of Police,
Vepery, Chennai-600 007

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records relating to the detention order passed by the 2nd respondent herein made in BCDFGISSSV No.119/2017, dated 04.04.2017, on the file of the 2nd respondent herein and quash the same as illegal and direct the respondents to produce the detenu viz., Karthik, son of Sampath, Hindu, aged 28 years, residing at No.16, Yadhava Street, Porur, Chennai-600 116, now confined in Central Prison, Puzhal, Chennai, as a remand prisoner, before this Court and set him at liberty.

For Petitioner : Mr.S.Arumugam

For Respondents : Mr.V.M.R.Rajentran, Addl.P.P.

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ORDER

(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 the records relating to detention order passed in No.119/BCDFGISSSV/2017, dated 04.04.2017, by the detaining authority against the detenu, by name Karthik, aged 28 years, S/o Sampath, No.16, Yadhaval Street, Porur, Chennai-600 116 and quash the same.

detaining authority, wherein it is averred to the effect that one Selvamareeswari, aged 23 years, wife of Santhanu, residing at No.7, Ganapathy Nagar, Porur, Chennai-600 116, as defacto complainant, has given a complaint in T-15 SRMC Police Station, wherein it is alleged that in the place of occurrence, the present detenu and others, due to previous enmity, have indiscriminately attacked the husband of the defacto complainant and due to their overt acts, he passed away and consequently, a case has been registered in Crime No.305 of 2017, under Sections 341, 302 and 506(ii) of the 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 subjective satisfaction to the effect that the detenu has committed a grave offence and ultimately branded him as a '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. In the counter filed on the side of the respondents it is averred to the effect that most of the averments made in the petition are false. The sponsoring authority has submitted all the relevant materials to the detaining authority. The detaining authority, after considering all the relevant materials and other connected documents, has derived subjective satisfaction to the effect that the detenu has committed a grave offence and ultimately branded him as a 'goonda' by way of passing the impugned detention order and the same does not require any interference and therefore, the present petition deserves to be dismissed.

5. The 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. Per contra, the learned Additional Public Prosecutor appearing for the respondents 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 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 to 9, two clear working days are available and in between Column Nos.12 and 13, twenty 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.

In fine, this Habeas Corpus Petition is allowed. The

detention order dated 04.04.2017, passed in No.119/BCDFGISSSV/2017, by the detaining authority against the detenu, by name Karthik, aged 28 years, S/o Sampath, residing at No.16, Yadhaval Street, Porur, Chennai-600 116, is quashed and the respondents are directed to set him at liberty forthwith, unless he is required to be incarcerated in connection with some other case.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

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, Fort St.George, Chennai-9.
- 3.The Commissioner of Police, Office of the Commissioner of Police, Vepery, Chennai-600 007
- 4.The Superintendent, Central Prison, Puzhal, Chennai.(In duplicate)
- 5.The Public Prosecutor, High Court, Madras

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H.C.P.No.701 of 2017

vgII(co)
ss(14/9/2017)