

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.07.2017

CORAM

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

H.C.P.No.705 of 2017

M.Senthil

.. Petitioner

Vs

1.State rep. by Secretary to Government,
Home, Prohibition, Excise Department,
Secretariat, Chennai-9.

2.The District Collector and The District Magistrate,
Villupuram District,
Villupuram.

... 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 C-2/10772/2017 passed by the 2nd respondent on 19.04.2017 set aside the same and direct the respondents to produce the detenu Murali, aged 27 years, S/o.Durai, who is now detained in Central Prison, Cuddalore before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.Swamidoss Manokaran

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 C-2/10772/2017 dated 19.04.2017 by the Detaining Authority against the detenu by name, Murali, aged 27 years, S/o.Durai, residing at Kalathumettu Street, Ongur Village, Tindivanam Taluk, Villupuram District and quash the same.

2. The Inspector of Police, Prohibition Enforcement Wing, Gingee 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 case :

- i. Tindivanam PEW Crime No.384/2016 registered under Sections 4[1-A], 4[1][a] of Tamil Nadu Prohibition Act, 1937 r/w Sections 6 and 7 of Tamil Nadu Rectified Spirit Rules, 2000.

3. Further, it is averred in the affidavit that on 18.03.2017, on the basis of reliable information, at about 14.00hrs, the Inspector of Police, Gingee Prohibition Enforcement Wing and others have made a vehicle check up and ultimately, found that the detenu is in possession of some quantities of arrack without having license and after observing due formalities, a case has been registered in Crime No.137/2017 under Sections 4[1][i], 4[1][aaa] and 4[1-A] of Tamil Nadu Prohibition Act, 1937 and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

4. The Detaining Authority after perusing all the relevant records, has arrived at a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as bootlegger by way of passing the impugned Detention Order and in order to quash the same, the present petition has been filed by the cousin brother of the detenu as petitioner.

5. On the side of the respondents, counter has been not been filed.

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, 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. Per contra, the learned Additional Public Prosecutor has represented that the representation submitted on the side of the petitioner has been duly considered without delay and therefore, the contention put forth by the petitioner is totally baseless and the same is liable to be rejected.

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, 11 clear working days are available. Likewise, in between column Nos.12 and 13, 17 clear working days are available and no explanation has been given on the side of the respondents for such a 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 19.04.2017 passed in C-2/10772/2017 by the Detaining Authority against the detenu by name, Murali, aged 27 years, S/o.Durai, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

1.The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition, Excise Department,
Secretariat, Chennai-9.

2.The District Collector and The District Magistrate,
Villupuram District,
Villupuram.

3.The Joint Secretary to Government,
Public (Law & Order) Department,
Fort St.George, Chennai-9.

4.The Superintendent,
Central Prison, cuddalore
(In Duplicate to communicate to the detenu)

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.705 of 2017

GMI (co)
ss(27/7/2017)

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