

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.07.2017

CORAM

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

H.C.P.No.706 of 2017

Santhi

.... Petitioner/
Wife of the detenuue

Vs

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

2. The District Collector and 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 of the 2nd respondent herein concerned in C2/10520/2017 dated 12.04.2017, the order of detention passed therein against the husband of the petitioner, Seenuvasan, aged 36 years, Son of Vasudevan, who is confirmed at Central Prison, Cuddalore quash the same and set him at liberty.

For Petitioner : Mr.S.Senthilvel

for Mr.A.Jayaraman

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 C2/10520/2017 dated

12.04.2017 by the Detaining Authority against the detenu by name, Seenuvasan, aged 36 years, Son of Vasudevan, residing at No.16, Mambazhapattu Road, Villupuram Town and Taluk, Villupuram District and quash the same.

2. The Inspector of Police, Tindivanam Prohibition Enforcement Wing as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is candidly stated to the effect that on 21.03.2017 at about 18.30 hours, the Inspector of Police, Tindivanam Prohibition Enforcement Wing and others, have conducted vehicle check up and intercepted a vehicle bearing Registration No.TN28-AL-3281 with 20 cans of spirit and subsequently a case has been registered against the detenu and others in Crime No.156 of 2017 under Section 4(1-A) 4 (1)(aaa) of Tamil Nadu Prohibition Act r/w. Sections 6 and 7 of Tamil Nadu Rectified Spirit Rules, 2000 and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

3. The Detaining Authority, after considering the gravity of offence alleged to have been committed by the detenu, has 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 wife of the detenu as petitioner.

4. On the side of the respondents, a detailed counter has been filed, wherein, it has been contended inter alia to the effect that most of the averments made in the petition are false. The Sponsoring Authority has supplied all the materials to the Detaining Authority. The Detaining Authority after perusing all the materials, has arrived to a subjective satisfaction to the effect that the detenu is in the habit of committing crimes and ultimately, passed the impugned Detention Order and the same does not suffer from any infirmity and therefore, the present petition deserves to be dismissed.

5. Learned counsel appearing for the petitioner has contended to the effect that the petitioner has given a representation 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.

6. Learned Additional Public Prosecutor has contended that the representation given by the petitioner has been disposed of without delay and the said circumstances, the present petition deserves to be dismissed.

7. 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, twenty clear working days are available. Likewise in between column Nos.12 and 13, one clear working day is 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 12.04.2017 passed in No.C2/10520/2017 by the Detaining Authority against the detenu by name, Seenuvasan, aged 36 years, Son of Vasudevan, residing at No.16, Mambazhapattu Road, Villupuram Town and Taluk, Villupuram District is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

gpa

To

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George, Secretariat,
Chennai-9.
2. The District Collector and District Magistrate
Villupuram District
Villupuram
3. The Secretary to Government,
Public (L &O),
Fort St.George, Chennai-9.
4. The Superintendent
Central Prison
Cuddalore

5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.706 of 2017

NRJK (CO)
VR(28/07/2017)



WEB COPY