

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.09.2017

CORAM

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

H.C.P.No.708 of 2017

Meena

.. Petitioner

Vs

1.The State of Tamil Nadu
Rep. by its Secretary
Prohibition and Excise (XVI) Department
Fort St. George, Chennai-9.

2.The District Collector and
District Magistrate
Kanchipuram District
Kanchipuram

... 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 in Memo No.BCDFGISSSV No.34 of 2017 dated 20.04.2017 passed by the 2nd respondent under Tamil Nadu Act 14 of 1982 and quash the same and direct the respondent to produce the detenu Arun @ Arunkumar S/o.Kamalakannan, male, aged 33 years, now confined in Central Prison, Puzhal before this Court and set the detenu at liberty.

For Petitioner : Mr.S.Vellidoss

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 BCDFGISSSV No.34/2017 dated 20.04.2017 by the Detaining Authority against the detenu by name, Arun @ Arunkumar, aged 33 years, S/o.Kamalakannan,

residing at No.1/193, Bagath Singh Street, Karasangal Village, Sriperumbudur Taluk, Kancheepuram District and quash the same.

2. The Inspector of Police, Manimangalam 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) Manimangalam Police Station, Crime No.445 of 2016, registered under Sections 147, 148, 149, 302 of Indian Penal Code and 302 r/w.109 of Indian Penal Code; and

ii) Manimangalam Police Station, Crime No.178 of 2017, registered under Sections 294(b), 385 and 506(ii) of Indian Penal Code.

3. Further it is averred in the affidavit that on 27.03.2017 at about 16 hours, one Venkatesh @ Ramki, aged 26 years, S/o.Ponnusamy, residing at Bazaar Road, Padappai Village, as defacto complainant, has given a complaint to the Sub-Inspector of Police, Manimangalam Police Station, wherein it is alleged to the effect that in the place of occurrence the present detenu and another have entered into TASMAL Bar in which the defacto complainant serves and both of them have demanded money from him. Since the defacto complainant has refused to part with, by using a knife they have attacked the defacto complainant with intention to murder him. Further, they have caused damage to the public property. Under such circumstances, a case has been registered in Crime No.182 of 2017 under Sections 294(b), 386, 307, 506(ii) of Indian Penal Code r/w. 3 (1) of Tamil Nadu Property (Prevention of Damage & Loss) Act, 1992 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 materials, has derived 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 sister of the detenu, as petitioner.

5. On the side of the respondents, counter has not been filed. Under such circumstance, this Habeas Corpus Petition is 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, two representations are submitted, but the same have not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. Learned Additional Public Prosecutor has contended that the representations submitted on the side of the detenu are 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 respect of first representation, in between column Nos.7 to 9, 3 clear working days are available and in between column Nos.12 and 13, 17 clear working days are available. Likewise, in respect of second representation, in between column Nos.7 to 9, 2 clear working days are available and in between column Nos.12 and 13, 9 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.

9. In fine, this petition is allowed. The Detention Order dated 20.04.2017 passed in BCDFGISSSV No.34/2017 by the Detaining Authority against the detenu by name, Arun @ Arunkumar, aged 33 years, S/o.Kamalakannan, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

gpa

To

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

2. The Secretary to the Government
Home, Prohibition and Excise Department
Secretariat
Chennai- 600 009

3.The Superintendent
Central Prison
Puzhal, Chennai

4.The Public Prosecutor,
High Court, Madras.

5. The District Collector/Magistrate,
Kanchepuram District.
Kanchepuram.

H.C.P.No.708 of 2017

KJI (CO)
NR 20/09/2017



WEB COPY