

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.09.2017

CORAM

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

H.C.P.No.715 of 2017

Chitraiselvi

..Petitioner/Wife of
the detenu

Vs

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

2.The Commissioner of Police,
Greater Chennai Police.

.. 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 2nd respondent dated 13.04.2017 in BCDFGISSSV No.170/2017 against the petitioner's husband, Palani @ Bendu Palani, aged 39 years, S/o.Perumal, who is confined at Central Prison, Puzhal-II, Chennai and set aside the same and direct the respondents to produce the detenu before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.Senthil Vel
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.170/2017 dated 13.04.2017 by the Detaining Authority against the detenu by name, Palani @ Bendu Palani, aged 39 years, S/o.Perumal, residing at No.1/1809, Anna Salai, Nesavalur Nagar,

Jalladaiyanpet, Medavakkam, Chennai-100 and quash the same.

2. The Inspector of Police, Teynampet 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. E-2 Royapettah Police Station Crime No.2445/2015 registered under Sections 392 @ 397 and 506[ii] r/w 34 of the Indian Penal Code.
- ii. J-7 Velachery Police Station Crime No.3526/2015 registered under Sections 341, 294[b], 397 and 506[iii] of the Indian Penal Code.
- iii. R-1 Mambalam Police Station Crime No.229/2016 registered under Sections 341, 294[b], 384, 307 and 506[ii] of the Indian Penal Code.
- iv. E-4 Abhiramapuram Police Station Crime No.1096/2016 registered under Sections 341, 294[b], 307 and 506[ii] of the Indian Penal Code.
- v. R-4 Soundarapandiyanur Angadi Police Station Crime No.858/2017 registered under Sections 294[b], 332 and 506 [ii] of the Indian Penal Code.

3. Further, it is averred in the affidavit that one Subbaiah, aged 34, S/o.Muthaiah, residing at Punjanur Village, Avudaiyur Koil Taluk, Pudukottai District, as de facto complainant has given a complaint in Teynampet Police Station, wherein, it is alleged that on 24.03.2017, the detenu has unlawfully detained the de facto complainant in the place of occurrence by using filthy words and also attacked him by using deadly weapons. Further, he has forcibly taken a sum of Rs.1,200/- from the cash box of the de facto complainant and consequently, a case has been registered in Crime No.817/2017 under Sections 341, 323, 294[b], 336, 427, 392, 397 and 506[iii] of the 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 other connected documents, has derived to 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 wife of the detenu as petitioner.

5. On the side of the respondents, counter has not been filed and therefore, the present Habeas Corpus Petition has been 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, 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.

7. Learned Additional Public Prosecutor 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 put forth 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 between column Nos.7 to 9, 5 clear working days are available and in between column Nos.12 and 13, 21 clear working days are available and no explanation has been given on the side of the respondents with regard to such 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 13.04.2017 passed in BCDFGISSV No.170/2017 by the Detaining Authority against the detenu by name, Palani @ Bendu Palani, aged 39 years, S/o.Perumal is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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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-9.

3.The Commissioner of Police,
Greater Chennai Police.

4.The Superintendent,
Central Prison, Puzhal, Chennai.
[in duplicate for communication to the detenu]

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.715 of 2017

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