

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.725 of 2017

Mariappan

... Petitioner

Vs

1.State of Tamil Nadu

Rep. By Secretary to Government
Home, Prohibition and Excise Department
Fort St. George
Chennai - 600 009

2. The District Magistrate & District Collector

Thiruvallur District
Thiruvallur

... 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 detention order passed in BCDFGISSSV No.14 of 2017 dated 16.04.2017 on the file of the 2nd respondent herein and set aside the same and direct the respondents to produce the body of detenu i.e., Bomb Saravanan @ Saravanan, S/o.Adhimoolam, the detenu herein, now confined in Central Prison-II, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.C.M.Gunasekaran

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 the records relating to the detention order passed in B.C.D.F.G.I.S.S.S.V

No.14 of 2017 dated 16.04.2017, against the detenu by name, Bomb Saravanan @ Saravanan, aged 40 years, S/o.Athimoolam, residing at No.10, Venkatesapuram, 2nd Street, Kannigapuram, Vyasarpadi, Chennai-12 and quash the same.

2. The Inspector of Police, Manavalanagar 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) B4 Sevvapet Police Station, Crime No.303 of 2016, registered under Section 302 of the Indian Penal Code; and

ii) B4 Sevvapet Police Station, Crime No.305 of 2016, registered under Sections 341, 294(b), 392, 397 and 506(ii) of the Indian Penal Code.

3. Further it is averred in the affidavit that on 19.01.2017, One Sekar, aged 50 years, S/o.Ranganathan, MGR Nagar, Periyakuppam, Thiruvallur Taluk, Thiruvallur District, as defacto complainant, has given a complaint to the Sub-Inspector of Police, Manavalanagar Police Station, wherein it is alleged to the effect that in the place of occurrence, the detenu by showing a knife has robbed a sum of Rs.2000/- from the custody of the defacto complainant and also with intention to murder has attacked him. Under such circumstances, a case has been registered in Crime No.32 of 2017 under Sections 294(b), 307, 392 r/w. 397 Indian Penal Code 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 documents, 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 wife of the detenu, as petitioner.

5. On the side of the respondents, counter has not been filed. Under such circumstance, this petition is disposed of on merits on the basis of available materials on record.

6. The learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been given, 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 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 detenu 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, 41 clear working days are available and no explanation has been given on the side of the respondents with regard to such delay and that the same would affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 16.04.2017 passed in B.C.D.F.G.I.S.S.S.V No.14 of 2017 by the Detaining Authority against the detenu by name, Bomb Saravanan @ Saravanan, aged 40 years, S/o.Athimoolam, is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(CO)

Dated:21.9.2017

***Corrected order**

to go

sd/-

Sub Assistant Registrar

dt.22.9.2017

//True Copy//

Sub Assistant Registrar

gpa

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
Secretariat
Chennai - 600 009

***3. The District Collector and District Magistrate
Thiruvallur District
Thiruvallur**

**4.The Superintendent
Central Prison
Puzhal, Chennai**

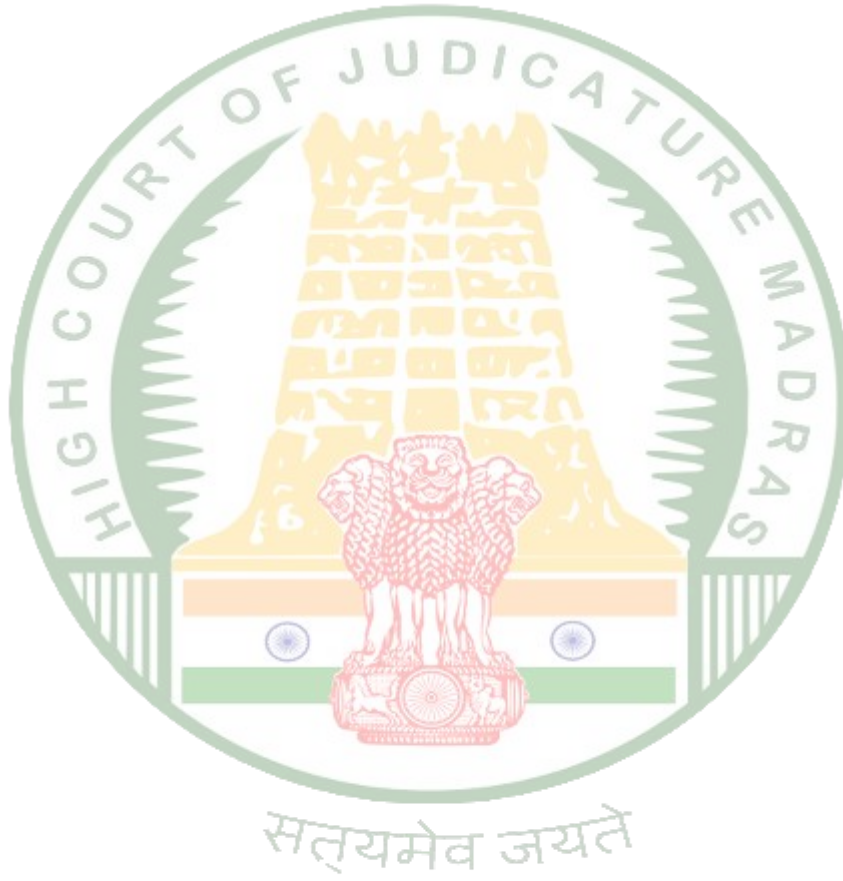
[in duplicate for communication to the detenu]

To be
Substituted
to the order
already
despatched on
21/09/2017

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.725 of 2017

sai(co)
ss(20/9/2017)



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