

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.09.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE S.BASKARAN

H.C.P.No.730 of 2017

Vimala Petitioner

Vs

- 1.The District Collector and
District Magistrate
Villupuram District
Villupuram
2. The Secretary to Government
of Tamil Nadu
Home, Prohibition and Excise Department
Secretariat, Chennai-9 .. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, calling for the records in C2/10412/2017 on the file of the first respondent, quash the detention order dated 11.04.2017 and direct the production of the detenu Batsha @ Barathan, Son of Ayyanar @ Ayyanarappan presently detained at the Central Prison, Cuddalore, under the Tamil Nadu Act, 14 of 1982 before this Court and set him at liberty.

For Petitioner : Mr.A.M.Rahamath Ali

For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

WEB COPY
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 C2/10412/2017 dated 11.04.2017 by the Detaining Authority against the detenu by name, Batsha alias Barathan, aged 39 years, S/o.Ayyanar alias

Ayyanarappan, residing at Mariyamman Koil Street, Morattandi Village, Vanur Taluk, Villupuram District and quash the same.

2. The Inspector of Police, Vanur Police Station, as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that on 04.12.2016, one Nagarajan, S/o.Subramaniyan has given a complaint to the Sub-Inspector of Police, Vanur Police Station, wherein it is alleged that in the place of occurrence, the detenu has attacked the defacto complainant by using a knife and forcibly taken away his motorcycle. Under such circumstance, a case has been registered in Crime No.370 of 2016 under Sections 394 of Indian Penal Code and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

3. The Detaining Authority, after considering the averments made in the affidavit and other connected documents, has arrived at 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.

4. 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.

5. 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.

6. Learned Additional Public Prosecutor has contended that the representation given on the side of the detenu has been disposed of without delay and therefore, the contention put forth on the side of the petitioner is liable to be rejected.

7. On the side of the respondents, a proforma has been submitted, wherein, it has been clearly stated that in between column Nos.7 to 9, 10 clear working days are available and in between column Nos.12 and 13, 14 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.

8. In fine, this petition is allowed. The Detention Order dated 11.04.2017 passed in C2/10412/2017 by the Detaining

Authority against the detenu by name, Batsha alias Barathan, aged 39 years, S/o.Ayyanar alias Ayyanarappan, 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 II)

//True Copy//

Sub Assistant Registrar

To

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

2.The District Collector and
District Magistrate
Villupuram District
Villupuram

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

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

5.The Public Prosecutor,
High Court, Madras.

WEB COPY

H.C.P.No.730 of 2017

rsk(co)
aa11/09/2017