

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.07.2017

CORAM

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

H.C.P.No.738 of 2017

Vinoth @ Vinothkumar
S/o.Moorthy

.. Petitioner/Detenu

Vs

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

2.The Commissioner of Police
Greater Chennai

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for records in connection with the order of detention passed by the second respondent dated 15.04.2017 in Memo No.184/BCDFGISSSV/2017 against the detenu Vinoth @ Vinoth Kumar, Male, aged 32 years, S/o.Moorthy, who is confined at Central Prison, Puzhal II, Chennai and set aside the same and direct the respondents to produce him before this Court and set him at liberty.

For Petitioner : Mr. S.Senthilvel

For Respondents : Mr.V.M.R.Rajentran
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 Memo No.184/BCDFGISSSV/2017 dated 15.04.2017, against the detenu by name, Vinoth @ Vinothkumar, aged 32 years, S/o.Moorthy, residing at No.16, Lal Bahadur Shastri Street, Lakshmi Nagar, Lakebund, Maduravoyal, Chennai- 600 095 and quash the same.

2. The Inspector of Police, T-4, Maduravoyal Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred that the detenu has involved in the following adverse case:-

1. T-4 Maduravoyal Police Station, Crime No.898/2016, registered under Section 302 of Indian Penal Code altered into Sections 120(b), 201, 302 r/w.34 of Indian Penal Code;

3. Further, it is averred in the affidavit that on 08.03.2017, one Adhikesavan, aged 31 years, S/o.Subramanian, residing at No.18, Om Sakthi Nagar, Vanagaram, Chennai -95, as defacto complainant, has given a complaint against the detenu, wherein it is specifically stated that the detenu and others have forcibly taken a sum of Rs.1700/- from the cash box of the defacto complainant by showing deadly weapons and consequently, a case has been registered in Crime No.459 of 2017 under Sections 341, 294(b), 336, 427, 397 and 506(ii) of 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 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 detenu himself, as petitioner.

5. On the side of the respondents, a counter has been filed, wherein, it is contended to the effect that most of the averments made in the petition are false. The Sponsoring Authority has submitted all the relevant materials to the Detaining Authority. The Detaining Authority, after considering the gravity of the offence alleged to have been committed by the detenu, has rightly branded him as "Goonda" and the same does not require any interference and therefore, the present petition deserves to be dismissed.

6. The 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. The learned Additional Public Prosecutor has contended that the representation submitted on the side of the detenu has been 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 has been clearly stated that in between column Nos.7 and 9, 4 clear working days and in between Column Nos.12 and 13, 20 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 and therefore, the Detention Order in question is liable to be quashed.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 15.04.2017 passed in Memo No.184/BCDFGISSSV/2017 by the second respondent against the detenu by name, Vinoth @ Vinothkumar, aged 32 years, S/o.Moorthy, residing at No.16, Lal Bahadur Shastri Street, Lakshmi Nagar, Lakebund, Maduravoyal, Chennai- 600 095 is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

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

2.The Commissioner of Police
Greater Chennai

3.The Superintendent, Central Prison,
Puzhal, Chennai.

(In Duplicate to communication to the detenu)

4.The Joint Secretary to Government,
Public(Law & Order),
Fort St.George, Chennai-9.

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.738 of 2017

gjII(co)
ss(27/7/2017)