

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.746 of 2017

Ananthi Petitioner/Wife of Detenu

vs.

1.District Collector and
District Magistrate,
Thiruvannamalai District,
Thiruvannamalai.

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

... 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 of petitioner's husband under Tamil Nadu Act 14 of 1982 passed by the first respondent dated 26.3.2017 in D.O.No.12/2017-C2, against the petitioner's husband Mr.Babu @ Bunk Babu, 44 years, who is confined at Central Prison, Vellore and set aside the same, consequently direct the respondents to produce the body of the detenu before this Court and set him at liberty.

For Petitioner : Mr.N.R.Ilango, Sr.counsel
for Mr.R.Vivekananthan

For Respondents : Mr.V.M.R.Rajentren, Addl.P.P

ORDER

(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 detention order, passed in D.No.12/2017-C2, dated 26.03.2017, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name Babu @ Bunk Babu, son of Natarajan, No.19/1, Gandhi Nagar, 3rd Street, Thiruvannamalai Town and Taluk, Tiruvannamalai District and quash the same.

2. The Inspector of Police, Tiruvannamalai Town Police Station, as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is averred to the effect that on 12.02.2017, one Saminathan, as defacto complainant, has given a complaint against the detenu, wherein it is alleged that on the said date, at about 7.00 hours, the detenu and another have murdered a person by name V.Kanagaraj, who is none other than the brother of the defacto complainant and consequently, a case has been registered in Crime No.64 of 2017 under Sections 341, 302 and 307 of the 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 derived subjective satisfaction to the effect that the detenu has committed a grave offence and ultimately branded him as a '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 a counter has been filed, wherein it is averred to the effect that most of the averments made in the petition are false and the sponsoring authority has submitted all the relevant materials to the detaining authority. The detaining authority, after perusing all the relevant materials and other connected documents, has derived subjective satisfaction to the effect that the detenu has committed a grave offence and ultimately branded him as 'Goonda' by way of passing the impugned detention order and the same does not call for interference and therefore, the present petition deserves to be dismissed.

5. The learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, two representations have been given, but the same have not been disposed of without delay and therefore, the detention order in question is liable to be quashed.

6. Per contra, the learned Additional Public Prosecutor appearing for the respondents has contended that the representations submitted by the detenu are duly 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 clinchingly stated that in respect of first representation, in between Column Nos.7 to 9, eleven clear working days are available and in between Column Nos.12 and 13, twenty nine clear working days are available. Likewise, in respect of second representation, in between

Column Nos.6 to 9, five clear working days are available and in between Column Nos.12 and 13, twenty nine clear working days are available and the said delay have not been explained on the side of the respondents. Since there is a huge delay in disposing of the representations given by the petitioner, 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.

In fine this Habeas Corpus Petition is allowed. The detention order dated 26.03.2017, passed in D.O.No.12/2017-C2, dated 26.3.2017, by the detaining authority against the detenu, by name Babu @ Bunk Babu, son of Natarajan, is quashed and the respondents are directed to set him at liberty forthwith, unless he is required to be incarcerated in connection with some other case.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

msk
To

1. District Collector and District Magistrate,
Thiruvannamalai District,
Thiruvannamalai.
2. Secretary to Government,
Home Prohibition and Excise Department,
Fort St.George,
Chennai-600 009
3. The Superintendent of Prison,
Central Prison, Vellore.

(In duplicate for Communication to detenue)

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.746 of 2017

NR 27/07/2017