

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.07.2017

CORAM

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

H.C.P.No.755 of 2017

Reena

.. Petitioner/Wife of Detenue

Vs

1. State of Tamil Nadu
Rep. By its Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai - 600 099
- 2.The District Collector and District Magistrate
Vellore District
Vellore

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 No.C3.D.O.No.40 of 2016 dated 27.04.2017 on the file of the 2nd respondent and quash the same and direct the respondents herein to produce the body of the detenu Saravanan, S/o.Magadevan, aged 35 years, confined in Central Prison, Vellore before this Court and set him at liberty.

For Petitioner : Mr. C.C.Chellappan
For Respondents : Mr..V.M.R.Rajentren
Additional Public Prosecutor

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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 C3.D.O.No.40 of 2017 dated 27.04.2017, against the detenu by name, Saravanann, aged 35 years, S/o.Magadevan, Ramapuram Village, Panamadangi Post, Katpadi Taluk, Vellore District and quash the same.

2. The Inspector of Police, Prohibition Enforcement Wing, Vellore, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred that the detenu has involved in the following adverse cases:-

i) Panamadangi Police Station, Crime No.202 of 2014, registered under Section 4(1) (aaa) and 4(1-A) ii of TNP Act, 1937; and

ii) Vellore Prohibition Enforcement Wing, Crime No.31 of 2015, registered under Section 4(1) a TNP Act, 1937;

iii) Vellore Prohibition Enforcement Wing, Crime No.123 of 2015, registered under Section 4(1) a TNP Act, 1937;

iv) Panamadangi Police Station, Crime No.84 of 2016, registered under Section 4(1) a, 4(1-A) ii of TNP Act, 1937; and

v) Panamadangi Police Station, Crime No.136 of 2016, registered under Section 4(1)aaa, 4(1-A) ii of TNP Act, 1937;

3. Further, it is averred in the affidavit that on 17.03.2017, the Inspector of Police, Prohibition Enforcement Wing, Vellore and other police officials, on information, has rushed to the place of occurrence and found that the detenu is in possession of illicit arrack without having licence and consequently, a case has been registered in Crime No.119 of 2017 under Sections 4(1) (i), 4(1)aaa and 4(1-A)ii of Tamil Nadu Prohibition Act r/w. Section 328 of 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 relevant records and other connected papers, has derived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as "Bootlegger" by way of passing the impugned Detention Order and in order to quash the same, the present petition has been filed by the mother of the detenu, as petitioner.

5. On the side of the respondents, a counter has been filed, wherein, it has been contended inter alia 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 and the Detaining Authority, after considering all the materials supplied to him, has derived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as Bootlegger by way of passing the impugned detention order 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 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 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, 6 clear working days are available 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 huge delay and that the same would affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India and that itself would be sufficient to quash the Detention Order in question.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 27.04.2017 passed in C3.D.O.No.40/2017 by the second respondent against the detenu by name, Saravanann, aged 35 years, S/o.Magadevan, Ramapuram Village, Panamadangi Post, Katpadi Taluk, Vellore District 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 III)

/true copy/

Sub Asst. Registrar

gpa

To

- सत्यमेव जयते
1. The Secretary to Government
Home, Prohibition and Excise Department
Fort St. George
Chennai - 600 009
 2. The Joint Secrerary to Government,
Public (Law & Order)
Fort St.George, Chennai-9
 3. The District Collector and District Magistrate
Collectorate Office
Vellore

4. The Superintendent
Central Prison
Vellore

5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.755 of 2017

VGII(CO)
NR 31/07/2017



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