

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.09.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE M.DHANDAPANI

H.C.P.No.772 of 2017

M.Murugesan

.. Petitioner

Vs

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

2. The District Magistrate and
District Collector
Salem District, Salem

.. 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 second respondent pertaining to the detention order made in C.M.P.No.26/B.L.A/C2/2017 dated 03.05.2017 in detaining the detenu under Tamil Nadu Act 14 of 1982 as "Bootlegger" and quash the same and further direct the respondents to produce the said detenu, namely Silambarasan, S/o.Thiru.Murugesan, aged 30 years, who is detained in Central Prison, Salem before this Court and set him at liberty.

For Petitioner : Mr.D.Veerasekaran

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

C.M.P.No.26/B.L.A/C2/2017 dated 03.05.2017, against the detenu by name, Silambarasan, aged 30 years, S/o.Murugesan, residing at Anaimeedu, Govindampalayam, Thalaivasal Police Station limits, Attur Taluk, Salem District and quash the same.

2. The Inspector of Police, Thalaivasal 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) Thalaivasal Police Station, Crime No.146 of 2016, registered under Sections 4(1)(aaa) and 4(1-A) of Tamil Nadu Prohibition Act;

ii) Attur Prohibition Enforcement Wing, Crime No.386 of 2016, registered under Sections 4(1)(aa) and 4(1-A) of Tamil Nadu Prohibition Act; and

iii) Attur Prohibition Enforcement Wing, Crime No.161 of 2017, registered under Sections 4(1)(aa) and 4(1-A) of Tamil Nadu Prohibition Act.

3. Further it is averred in the affidavit that on 24.03.2017 at about 11.15 hours, the Inspector of Police attached Thalaivasal Police Station have conducted prohibition raid and ultimately in the place of occurrence they found the detenu and the detenu was in possession of 110 liters of illicit arrack and after observing due formalities, a case has been registered in Crime No.69 of 2017 under Sections 4(1)(aaa) and 4(1-A) of Tamil Nadu Prohibition Act 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 "Bootlegger" by way of passing the impugned Detention Order and in order to quash the same, the present petition has been filed by the father 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. 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 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, 17 clear working days are available and in between column Nos.12 and 13, 1 clear working day is 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 03.05.2017 passed in C.M.P.No.26/B.L.A/C2/2017 by the second respondent against the detenu by name, Silambarasan, aged 30 years, S/o.Murugesan 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 VI)

//True Copy//

Sub Assistant Registrar

gpa

To

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

2. The District Magistrate and
District Collector Salem District
Salem

3.The Superintendent
Central Prison,
Salem
(In duplicate for communication to the detenu)

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

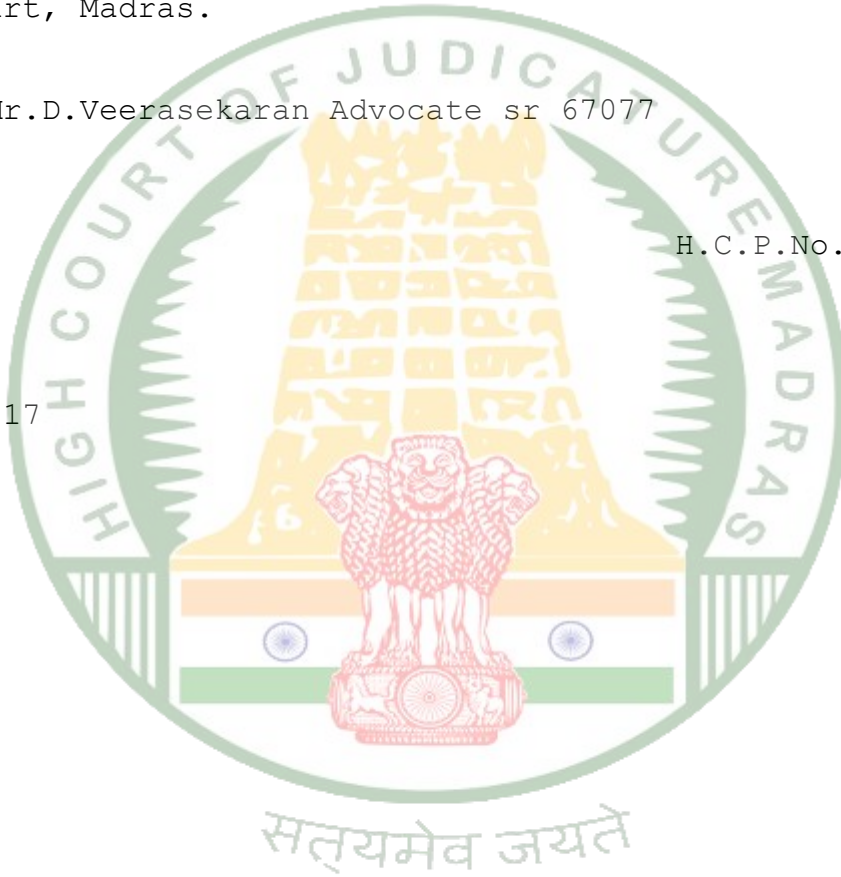
5.The Superintendent
Central Prison
Salem
[in duplicate for communication to the detenu]

6.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.D.Veerasekaran Advocate sr 67077

H.C.P.No.772 of 2017

sk(co)
aa14/09/2017



WEB COPY