

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2017

CORAM

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

H.C.P.No.784 of 2017

Naveeth

... Petitioner

Vs

1. The State of Tamil Nadu
Rep. by its Secretary to Government
Home, Prohibition and Excise Department
Secretariat
Chennai - 9

2. The District Collector and District Magistrate,
Vellore District
Vellore-632 009

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the entire records relating to petitioner's detention under Tamil Nadu Act 14 of 1982 vide detention order dated 20.12.2016 on the file of the second respondent herein made in proceedings C3/D.O.No.85/2016 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner namely Naveeth, Son of Nazeer Ahmed, aged 24 years, now detained at Central Prison, Vellore before this Court and set the petitioner at liberty.

For Petitioner : Mr.C.C.Chellappan

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 records relating to the Detention Order passed in C3/D.O.No.85/2016 dated 20.12.2016 by the Detaining Authority against the detenu

by name, Naveeth, aged 24 years, S/o.Nazeer Ahmed, residing at No.5/62, Majith Street, Chennampettai, Vaniyambadi, Vellore District, now residing at C/o.Sharba Nisham, No.620, Majith Street, Kottai, Vaniyambadi Town, Vellore District and quash the same.

2. The Inspector of Police, Vaniyambadi Town Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred effect that the detenu has involved in the following adverse cases:

- i) Vaniyambadi Town Police Station, Crime No.373 of 2014, registered under Section 379 of Indian Penal Code;
- ii) Vaniyambadi Town Police Station, Crime No.84 of 2016, registered under Sections 457 and 380 of Indian Penal Code;
- iii) Vaniyambadi Town Police Station, Crime No.288 of 2016, registered under Section 379 of Indian Penal Code;
- iv) Vaniyambadi Town Police Station, Crime No.439 of 2016, registered under Sections 457 and 380 of Indian Penal Code;
- v) Vaniyambadi Town Police Station, Crime No.450 of 2016, registered under Section 379 of Indian Penal Code; and
- vi) Vaniyambadi Town Police Station, Crime No.452 of 2016, registered under Section 379 of Indian Penal Code

3. Further it is averred in the affidavit that on 09.11.2016 at about 10.00am one Askar Ali, as defacto complainant, has given a complaint to the Head Constable, Vaniyambadi Town Police Station wherein it is alleged to the effect that in the place of occurrence, the detenu has forcibly taken away a sum of Rs.500/- from the defacto complainant by showing a deadly weapon and consequently, a case has been registered in Crime No.463 of 2016 under Section 397 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 averments made in the affidavit, 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, counter has not been filed and therefore, the present petition is disposed of on merits on the basis of available materials on record.

6. 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. 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 is clearly stated that in between column Nos.7 and 9, 4 clear working days are available and in between column Nos.12 and 13, 29 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.

9. In fine, this petition is allowed. The Detention Order dated 20.12.2016 passed in C3/D.O.No.85/2016 by the Detaining Authority against the detenu by name, Naveeth, aged 24 years, S/o.Nazeer Ahmed, residing at No.5/62, Majith Street, Chennampettai, Vaniyambadi, Vellore District, now residing at C/o.Sharba Nisham, No.620, Majith Street, Kottai, Vaniyambadi Town, Vellore District, 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 VIII)

//True Copy//

Sub Assistant Registrar

gpa

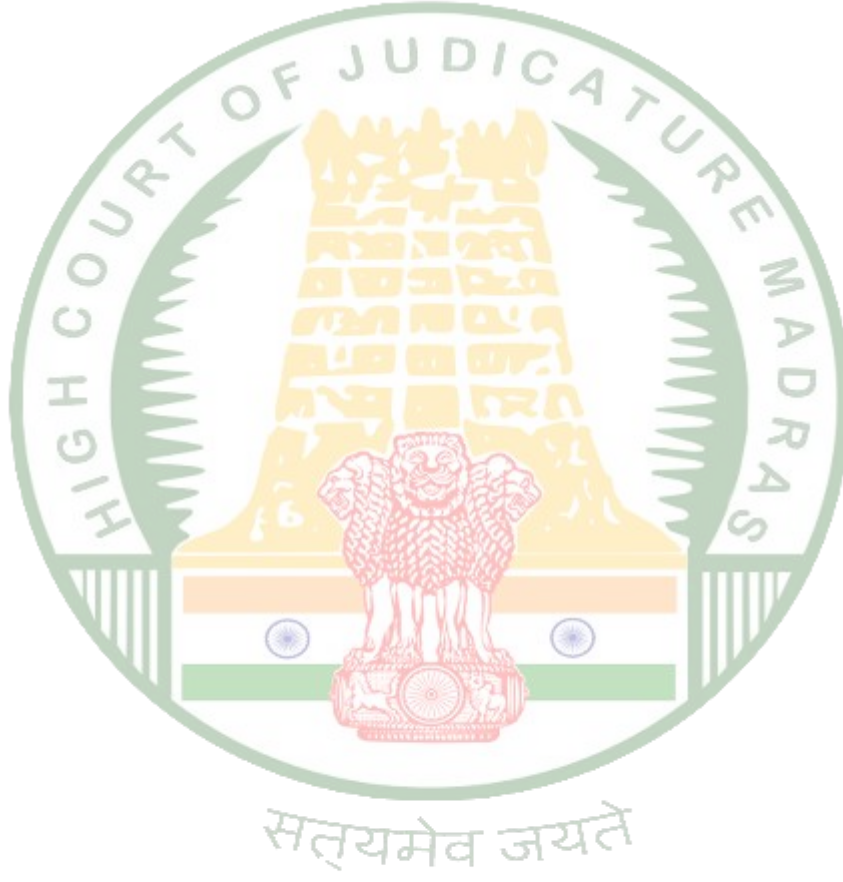
To

1. The Joint Secretary to Government of Tamil Nadu, Public [Law and Order] Department, Secretariat, Chennai-9.
2. The Secretary to Government Home, Prohibition and Excise Department Secretariat, Chennai - 600 009
3. The District Collector and District Magistrate, Vellore District Vellore-632 009
4. The Superintendent Central Prison, Vellore. (In duplicate)

5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.784 of 2017

CA(22/08/2017)



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