

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.09.2017

CORAM

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

H.C.P.No.802 of 2017

Vinoth .. Petitioner

Vs

1.The Secretary to Government
Home, Prohibition and Excise Department
Secretariat
Chennai - 9

2. The District Magistrate and District Collector
Thiruvallur District
Thiruvallur .. 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 in connection with the order of detention passed by the second respondent dated 19.04.2017 in BCDFGISSSV No.15 of 2017 against the petitioner cousin Naren @ Narendran, male, aged 26 years, S/o.Annadurai, who is confined at Central Prison, Puzhal II, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

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 BCDFGISSSV No.15 of 2017 dated 19.04.2017, against the detenu by name, Naren @

Narendran, aged 26 years, S/o.Annadurai, residing at Rajiv Gandhi Nagar, (Kuttakarai), Kadambathur Village and Post, Tiruvallur Taluk, Tiruvallur District and quash the same.

2. The Inspector of Police, Kadambathur 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) B4 Sevvapet Police Station, Crime No.303 of 2016, registered under Section 302 of the Indian Penal Code; and

ii) B4 Sevvapet Police Station, Crime No.304 of 2016, registered under Sections 147, 148, 341, 294(b), 392, 397 and 506(ii) of the Indian Penal Code;

3. Further it is averred in the affidavit that on 24.03.2017, at about 15.30 hours, one Francis, aged 53 years, S/o.P.Selvaraj, residing at No.36, Rajaji Salai, Kadambathur Villae and Post, Tiruvallur Taluk and District, as defacto complainant, has given a complaint in Kadambathur Police Station wherein it is alleged to the effect that in the place of occurrence, the detenu has attacked the defacto complainant with intention to murder him. Under such circumstances, a case has been registered in Crime No.193 of 2017 under Sections 294(b), 307, 506(ii) of the Indian Penal Code and Section 3 of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1922 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 documents, 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 cousin brother 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 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, 26 clear working days are available and in between column Nos.12 and 13, 2 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.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 19.04.2017 passed in BCDFGISSSV No.15 of 2017 by the Detaining Authority against the detenu by name, Naren @ Narendran, aged 26 years, S/o.Annadurai 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 II)

//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
Fort St. George
Chennai - 600 009
3. The District Magistrate and District Collector
Thiruvallur District
Thiruvallur

4.The Superintendent
Central Prison
Puzhal
[in duplicate for communication to the detenu]

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.802 of 2017

GP(CO)
SS(19/9/2017)



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