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.809 of 2017

Sathya .... Petitioner

vs.

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

2. District Collector &
District Magistrate,
Krishnagiri District,
Krishnagiri ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records in connection with the order of detention passed by the second respondent dated 17.04.2017 in S.C.No.19/2017, against the petitioner husband Ravi, aged 27 years, son of Muniraj, who is confined at Central Prison, Salem 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.Rajentran, Addl.P.P.

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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

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S.C.No.19/2017, dated 17.04.2017, by the detaining authority against the detenu, by name Ravi, aged 27 years, S/o Muniraj, residing at Sanachandiram Village & Post, Hosur Taluk, Krishnagiri District and quash the same.

2. The Inspector of Police, Kandhikuppam 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. Erode District, Modakurichi Police Station, Crime No.215 of 2013, registered under Sections 302, 201 of the Indian Penal Code altered into Sections 147, 148, 302, 201, 120(b), 202, 109 of the Indian Penal Code.

ii. Kanchipuram District, Sriperumpudur Police Station, Crime No.646 of 2014, registered under Section 379 of the Indian Penal Code.

iii. Kanchipuram District, Sriperumpudur Police Station, Crime No.708 of 2014, registered under Sections 457 and 380 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 25.03.2017, at about 11.00 a.m, one Anandhan, son of Poongavanam, residing at Orappam Village, Bargur Taluk, Krishnagiri District, as defacto complainant, has given a complaint against the detenu, wherein it is alleged to the effect that in the place of occurrence, the detenu, by showing a knife, has forcibly taken away a sum of Rs.350/- from the defacto complainant and consequently a case has been registered in Crime No.70 of 2017, under Section 392 of the 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 and other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender 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.

5.In the counter filed on the side of the respondents it is averred to the effect that most of the averments made in the petition are false. The sponsoring authority has submitted all the relevant materials to the detaining authority. The detaining authority, after considering all the relevant

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materials and other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as a 'goonda' 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 submitted, 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 appearing for the respondents 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 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 to 9, thirty two clear working days are available and in between Column Nos.12 and 13, seventeen 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.

In fine, this Habeas Corpus Petition is allowed. The detention order dated 17.04.2017, passed in S.C.No.19/2017, by the detaining authority against the detenu, by name Ravi, aged 27 years, S/o Muniraj, residing at Sanachandiram Village and Post, Hosur Taluk, Krishnagiri District, 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.

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Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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msk

To

1. The Secretary to Government,
   Home Prohibition and Excise Department,
   Fort St.George,
   Chennai-9.

2. The District Collector &
   District Magistrate,
   Krishnagiri District, Krishnagiri.

3. The Commissioner of Police,
   Chennai Police,
   Office of Commissioner of Police(Goondas Section)
   Vepery,
   Chennai-600 007

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

5. The Superintendent,
   Central Prison,
   Salem.

6. The Public Prosecutor,
   High Court, Madras

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VR(19/09/2017)

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