

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.09.2017

CORAM

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

H.C.P.No.827 of 2017

A.Bakiyalakshmi

..

Petitioner

Vs

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

2. The Commissioner of Police
Greater Chennai Police

..

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 01.04.2017 in Memo No.105/BCDFGISSSV/2017 against the petitioner husband Anbazhagan, male aged 36 years, S/o.Mani, 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

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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 Memo No.105/BCDFGISSSV/2017 dated 01.04.2017, against the detenu by name, Anbazhagan, aged 36 years, S/o.Mani, residing at No.65/17, M.G.R.Street, Thanthai Periyar Nagar, Korattur, Chennai-600 080

and quash the same.

2. The Inspector of Police, Korattur 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) T-2 Ambattur Estate Police Station, Crime No.363 of 2016, registered under Section 380 r/w.34 of Indian Penal Code;

ii) T-3, Korattur Police Station, Crime No.1218 of 2016, registered under Section 379 of Indian Penal Code;

iii) T-3, Korattur Police Station, Crime No.1941 of 2016, registered under Section 380 of Indian Penal Code;

iv) T-2, Ambattur Police Station, Crime No.158 of 2016, registered under Sections 457 and 380 of Indian Penal Code;

v) T-1, Ambattur Police Station, Crime No.509 of 2017, registered under Section 454 and 380 of Indian Penal Code; and

vi) T-3, Korattur Police Station, Crime No.397 of 2017, registered under Sections 457 and 380 of Indian Penal Code;

3. Further it is averred in the affidavit that on 02.03.2017, one Murugesan, aged 56 years, S/o.Shanmugam, residing at No.4, Nethaji Street, TVS Nagar, Padi, Chennai-50, as defacto complainant, has given a complaint against the detenu in T-3 Korattur Police Station, wherein it is alleged that in the place of occurrence by showing a knife, the detenu has forcibly taken away a sum of Rs.950/- and a cellphone from the custody of the defacto complainant. Further, the detenu has taken a bottle and broken the same and thereby created a panic in the minds of the general public and consequently, a case has been registered in Crime No. 521 of 2017 under Sections 341, 294 (b), 427, 336, 392, 307 r/w 506(ii) 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 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 wife of the detenu, as petitioner.

5. On the side of the respondents, counter has not been filed. Under such circumstance, this Habeas Corpus 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, 3 clear working days are available and in between column Nos.12 and 13, 10 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 01.04.2017 passed in Memo No.105/BCDFGISSSV/2017 by the second respondent against the detenu by name, Anbazhagan, aged 36 years, S/o.Mani, is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
सत्यमेव जयते
Assistant Registrar(CS VI)

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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
Government of Tamil Nadu
Home, Prohibition and Excise Department
Secretariat
Chennai - 600 009

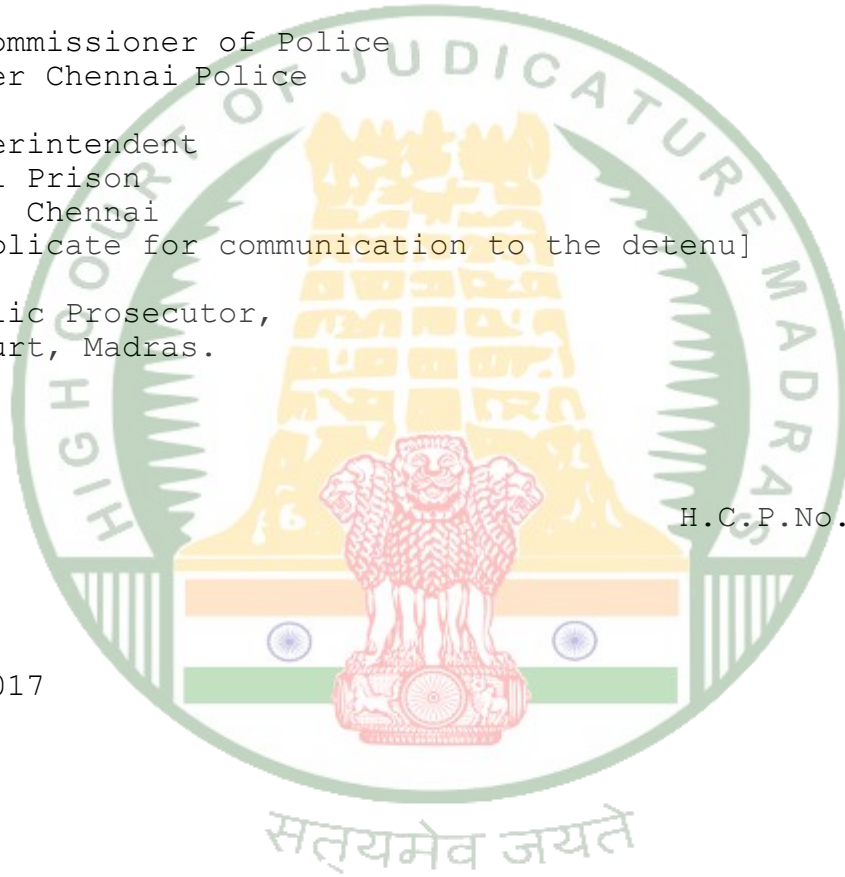
3. The Commissioner of Police
Greater Chennai Police

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

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.827 of 2017

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