

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.08.2017

CORAM

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

H.C.P.No.880 of 2017

Ramu .. Petitioner /Father of  
the detenue

Vs

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

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, to call for the records in connection with the order of detention passed by the 2<sup>nd</sup> respondent dated 08.05.2017 in No.239/BCDFGISSSV/2017 against the petitioner's son Senthil @ Venkatesh, Male, aged 26 years, S/o.Ramu, who is now confined at Central Prison, Puzhal-II, Chennai and set aside the same and direct the respondents to produce the detenu before the Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.Senthil Vel  
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 records relating to the detention order passed in No.239/BCDFGISSSV/2017 dated 08.05.2017 by the Detaining Authority against the detenu

by name, Senthil @ Venkatesh, aged 26 years, S/o.Ramu, residing at No.207, Periyar Nagar, Korattur, Chennai-80 and quash the same.

2. The Inspector of Police, T-2 Ambattur Estate 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.363/2016 registered under Sections 380 r/w 34 of Indian Penal Code.
- ii. T-1 Ambattur Police Station Crime No.648/2017 registered under Sections 457 and 380 of Indian Penal Code.
- iii. T-2 Ambattur Estate Police Station Crime No.368/2017 registered under Sections 461 and 380 of Indian Penal Code.
- iv. T-2 Ambattur Estate Police Station Crime No.617/2017 registered under Section 392 of Indian Penal Code.

3. Further, it is averred in the affidavit that on 05.04.2017, one Raja, S/o.Ramaswamy, residing at No.235, Pillaiyar Koil Street, Mannurpet, Chennai-50, as de facto complainant has given a complaint, wherein, it is alleged to the effect that in the place of occurrence, the detenu has forcibly taken away a sum of Rs.1,050/- from the custody of the de facto complainant by showing a deadly weapon and at such circumstances, a case has been registered in T-2 Ambattur Estate Police Station Crime No.622/2017 under Sections 341, 294[b], 336, 427, 392, 397 and 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 affidavit and other connected documents, has arrived at a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as goonda by 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, a counter has been filed, wherein, it is averred to the effect that most of the averments made in the petition are false. The Sponsoring Authority has submitted all the materials to the Detaining Authority. The Detaining Authority after perusing all the records, has arrived at a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, passed the impugned Detention Order and the same does not call for any interference and therefore, the present petition deserves to be dismissed.

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been submitted to the concerned authorities.

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 also equally contended to the effect that the representation submitted on the side of the petitioner 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 to 9, 4 clear working days are available. Likewise, in between column Nos.12 and 13, 6 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 08.05.2017 passed in No.239/BCDFGISSSV/2017 by the Detaining Authority against the detenu by name, Senthil @ Venkatesh, aged 26 years, S/o.Ramu, 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 III)

//True Copy//

Sub Assistant Registrar

gya

To

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

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

3.The Commissioner of Police,  
Greater Chennai Police.

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

5.The Public Prosecutor,  
High Court, Madras.

H.C.P.No.880 of 2017

pvs (co)  
aa16/08/2017



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