

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:01.09.2017

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM

AND

THE HON'BLE MR.JUSTICE P.KALAIYARASAN

H.C.P.No.891 of 2017

S.Jayanthi

.... Petitioner

vs.

1.The State of Tamil Nadu,
rep.by the Secretary to Government,
Home Prohibition and Excise Department,
Fort St.George,
Chennai-9.

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

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the entire records in connection with the order of detention passed by the second respondent 20.05.2017 in Memo No.286/BCDFGISSSV/2017 against the petitioner son Ajith, male, aged 23 years, S/o.Selvam, 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.Rajentran, Addl.P.P.
For R1 and R2

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 No.286/BCDFGISSSV/2017, dated 20.05.2017, by the detaining authority against the detenu, by name Ajith, aged 23 years, S/o Selvam, residing at No.5/17,5th Block, MMDA Colony, Maduravoyal, Chennai-600 095 and quash the same.

2.The Inspector of Police, Maduravoyal Police Station, as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is averred to the effect that on 07.04.2017, one Selvi, wife of Annadurai, residing at No.9, Thirukumaran Nagar, MMDA, Maduravoyal, Chennai-95, has given a complaint in Maduravoyal Police Station, wherein it is alleged to the effect that the present detenu and others have indiscriminately attacked one Rengadurai, who is none other than her son. Further it is averred in the affidavit that on the basis of the allegation made in the complaint, a case has been registered in Crime No.647 of 2017, under Sections 141, 149, 362, 506(ii) and 302 IPC and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

3.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 has committed a grave offence 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 mother of the detenu, as petitioner.

4.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 materials and other connected documents, has derived subjective satisfaction to the effect that the detenu has committed a grave offence 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.

5.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.

6.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.

7.On the side of the respondents, a proforma has been submitted, wherein it is clearly stated that in between Column Nos.7 to 9, five clear working days are available and in between Column Nos.12 and 13, four 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 20.05.2017, passed in No.286/BCDFGISSSV/2017, by the detaining authority against the detenu, by name Ajith, aged 23 years, S/o Selvam, No.5/17, 5th Block, MMDA Colony, Maduravoyal, Chennai-95, 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.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

msk

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-9.
- 3.The Commissioner of Police,
Chennai Police,
Office of Commissioner of Police (Goondas Section)
Vepery,
Chennai-600 007.
- 4.The Superintendent,
Central Prison,
Puzhal, Chennai.(In duplicate for communication to
detenu)

5.The Public Prosecutor,
High Court, Madras

+1 cc to M/s.K.Shanmugam Advocate sr 63226

H.C.P.No.891 of 2017

rk(co)
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