

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.08.2017

CORAM

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

H.C.P.No.899 of 2017

Indira

.. Petitioner

Vs

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

2.The District Collector and District Magistrate,
Tiruvannamalai District.

3.The Superintendent,
Central Prison, Vellore,
Vellore District.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records of the 2nd respondent herein in connection with the detention order D.O.No.11/2017-C2 dated 23.03.2017 and quash the same and further direct the respondents to produce the detenu Rajendiran, aged 51 years, S/o.Chinnathambi, detained in Central Prison, Vellore before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.Seenuvasan
for Ms.M.Rebecca

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 records relating to the detention order passed in D.O.No.11/2017-C2 dated 23.03.2017 by the Detaining Authority against the detenu by name, Rajendiran, aged 51 years, S/o.Chinnathambi, residing

at No.456, Gengaiamman Koil Street, Thenmudiyanur Village, Thandrapattu Taluk, Tiruvannamalai District and quash the same.

2. The Inspector of Police, Prohibition Enforcement Wing, Tiruvannamalai 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. Thandrapattu Police Station Crime No.339/2015 registered under Sections 4[1][aa] of TNP Act, 1937.
- ii. Tiruvannamalai PEW Crime No.24/2016 registered under Sections 4[1][a] r/w 4[1-A][ii] of TNP Act, 1937 @ 4[1][a] of TNP Act, 1937.
- iii. Tiruvannamalai PEW Crime No.69/2016 registered under Sections 4[1][aa] r/w 4[1-A][ii] of TNP Act, 1937 @ 4[1][aa] of TNP Act, 1937.

3. Further, it is averred in the affidavit that on 01.03.2017, one Nagappan, aged 38 years, S/o.Mayakannan, has appeared before the Inspector of Police, PEW, Tiruvannamalai and reported that in the place of occurrence, the detenu has been selling illicit arrack and consequently, the Inspector of Police and others have rushed to the place of occurrence and found that the detenu is selling arrack without having license and therefore, a case has been registered in Crime No.136/2017 under Sections 4[1][i] r/w 4[1-A][ii] of TNP Act, 1937 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 arrived to a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as bootlegger 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 and therefore, the present petition is disposed of on the basis of available materials on record.

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 and 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 contended to the effect that the representation alleged to have been given on the side of the detenu has been duly disposed of without delay and

therefore, the contention put forth on the side of the detenu 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, 7 clear working days are available and 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 a huge 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 23.03.2017 passed in D.O.No.11/2017-C2 by the Detaining Authority against the detenu by name, Rajendiran, aged 51 years, S/o.Chinnathambi is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

gya

To

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

2.The District Collector and District Magistrate,
Tiruvannamalai District.

3.The Superintendent,
Central Prison, Vellore.
[in duplicate for communication to the detenu]

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

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.899 of 2017

SJ(CO)
NR 23/08/2017