

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.08.2017

CORAM

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

H.C.P.No.907 of 2017

Tmt.T.Bhanumathi

.. Petitioner

Vs

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

2.The Commissioner of Police
Greater Chennai
Vepery,
Chennai - 600 007

.. 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 second respondent dated 24.05.2017 in Memo No.294/BCDFGISSSV/2017 against the petitioner's son Anandan, son of Thangarajan, aged about 37 years, confined at Central Prison, Puzhal, 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.V.Paarthiban

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 BCDFGISSSV No.294/2017 dated 24.05.2017, by the Detaining Authority against the detenu by name, Anandan, aged 37 years, S/o.Thangarajan, No.42, Raniammal Nagar, Mangadu, Chennai-600 122 and quash the same.

2. The Inspector of Police, R1 Mambalam Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred that the detenu has involved in the following adverse cases:

i) R7 K.K.Nagar Police Station, Crime No.54 of 2017, registered under Sections 147, 448, 342, 324, 384 & 506(ii) of Indian Penal Code, altered to Section 147, 148, 342, 384, 364 (A), 365, 324, 506(ii) of Indian Penal Code and Section 25(1) A of Arms Act;

ii) R1 Mambalam Police Station, Crime No.451 of 2017, registered under Sections 341, 294(b), 336, 427, 307 and 506(ii) of Indian Penal Code;

iii) R1 Mambalam Police Station, Crime No.934 of 2017, registered under Sections 341, 294(b), 384 and 506(ii) of Indian Penal Code; and

iv) R2 Kodambakkam Police Station, Crime No.825 of 2017, registered under Sections 341, 294(b), 427, 392 and 506(ii) of Indian Penal Code.

3. Further it is averred in the affidavit that on 04.05.2017, one Seenivasan, aged 51 years, S/o.Venkatasamy, residing at No.218, Jothiyammal Nagar, Saidapet, Chennai-15, as defacto complainant, has given a complaint in R1 Mambalam Police Station, wherein it is alleged to the effect that in the place of occurrence, the detenu has deterred him by using filthy words and also attacked him by using a knife. Under the said circumstances, a case has been registered in Crime No.942 of 2017 under Sections 341, 294(b), 336, 427, 307 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 considering the averments made in the affidavit and other connected materials, 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 mother of the detenu, as petitioner.

5. Despite repeated adjournments, on the side of the respondents, counter has not been filed. Under such circumstance, the present Habeas Corpus Petition is disposed of 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. Per contra, 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 Detention Order need not be quashed.

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, four clear working days are available and in between column Nos.12 and 13, three 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 24.05.2017 passed in BCDFGISSSV No.294/2017 by the second respondent against the detenu by name, Anandan, aged 37 years, S/o.Thangarajan, No.42, Raniammal Nagar, Mangadu, Chennai-600 122 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 V)

/true copy/

Sub Asst. Registrar

gpa
To

- 1.The Principal Secretary to Government
Prohibition and Excise Department (Home)
Secretariat, Chennai - 600 009
- 2.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9
- 3.The Commissioner of Police
Greater Chennai Police
Vepery, Chennai-600 007
- 4.The Superintendent
Central Prison, Puzhal
Chennai - 66
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.907 of 2017

rr(co)
ss(9/8/2017)