

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.982 of 2017

Sufiyan

.. Petitioner

Vs

1. The State of Tamil Nadu  
Rep. By its Principal Secretary to Government,  
Prohibition and Excise Department,  
Fort St. George  
Chennai-600 009.

2. The Commissioner of Police  
Greater Chennai  
Egmore  
Chennai- 600 009

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, calling for the entire records leading to the passing of the order of detention under Act 14/1982 against the petitioner's son Imran @ Imran Shah, aged 26 years, residing at No.3/192, 3<sup>rd</sup> Street, Bismillah Nagar, Vettuvkeni, Chennai - 600 115 vide Memo No.97/BCDFGISSSV/2017 dated 31.03.2017 on the file of the 2<sup>nd</sup> respondent, quash the same and consequently direct the respondents herein to set the detenu, namely Imran @ Imran Shah, aged 26 years, residing at No.3/192, 3<sup>rd</sup> Street, Bismillah Nagar, Vettuvkeni, Chennai - 600 115 at liberty from Central Prison, Chennai.

For Petitioner : Mr.S.F.Mohamed Yousuf

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 Memo No.97/BCDFGISSSV/2017 dated 31.03.2017 by the Detaining Authority against the detenu by name, Imran @ Imran Shah, aged 26 years, S/o.Subaiyan, residing at No.3/192g, 3rd Street, Bismillah Nagar, Vettuvenkeni, Chennai - 600 115 and quash the same.

2. The Inspector of Police, J-8 Neelankarai 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) J-8 Neelankarai Police Station, Crime No.404 of 2017, registered under Sections 147, 148, 341, 294(b), 307 and 506(ii) of Indian Penal Code; and

ii) J-8 Neelankarai Police Station, Crime No.718 of 2017, registered under Section 379 of Indian Penal Code.

3. Further it is averred in the affidavit that on 05.03.2017, one Panneerselvam, aged 38 years, S/o.Mani, residing at No.5/171, Blue Beach Road, Periya Neelankarai Kuppan, Neelankarai, Chennai - 115, as de facto complainant, has given a complaint against the detenu and others wherein it is alleged that in the place of occurrence, the detenu and others have unlawfully assembled and also attacked the defacto complainant by using deadly weapon and thereby caused injuries. Under such circumstance, a case has been registered in Crime No.776/2017 under Sections 147, 148, 341, 294(b), 307, 336, 427 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 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 father of the detenu as petitioner.

5. On the side of the respondents, counter has not been filed. Therefore, the present petition is disposed of on merits on the basis of available material records.

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, two representations are submitted and the same have 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 that the representations submitted on the side of the detenu are duly disposed of without delay and under said circumstances, the contention urged 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 respect of first representation, in between column Nos.7 and 9, 7 clear working days are available and in between column Nos.12 and 13, 20 clear working days are available. Likewise, in respect of second representation, in between column Nos.7 and 9, 4 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 31.03.2017 passed in Memo No.97/BCDFGISSSV/2017 by the Detaining Authority against the detenu by name, Imran @ Imran Shah, aged 26 years, S/o.Subaiyan, 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 IV )

/true copy/

Sub Asst. Registrar

gpa

To

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

2. The Principal Secretary to Government,  
Prohibition and Excise Department,  
Fort St. George  
Chennai-600 009.

3. The Commissioner of Police  
Greater Chennai  
Egmore  
Chennai- 600 009

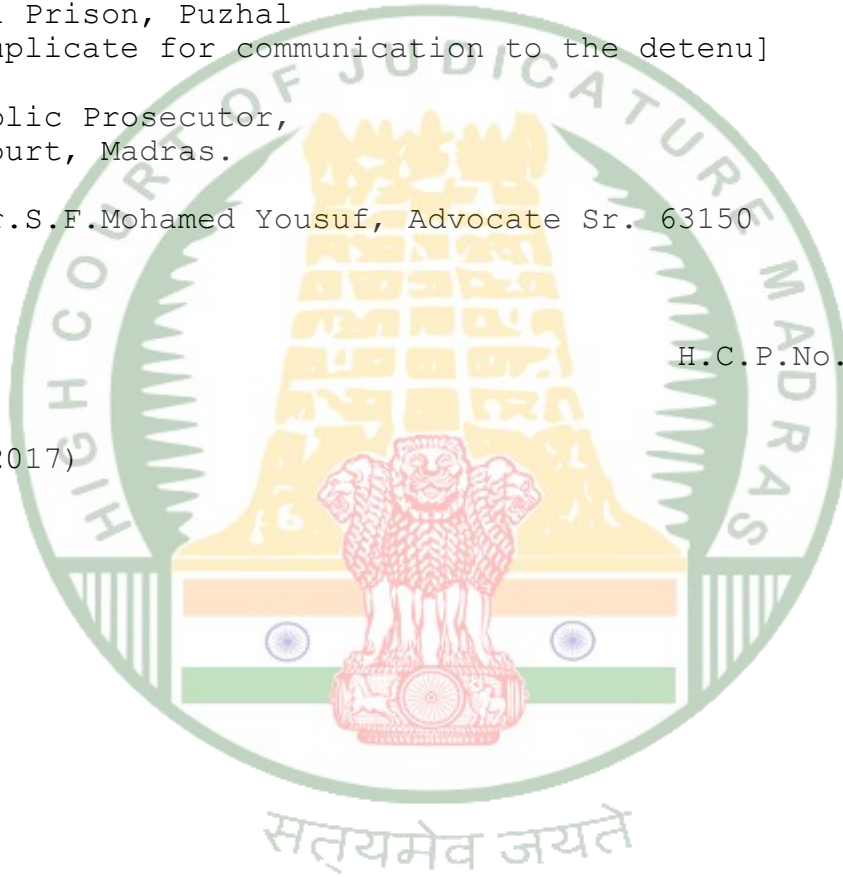
4. The Superintendent  
Central Prison, Puzhal  
[in duplicate for communication to the detenu]

5. The Public Prosecutor,  
High Court, Madras.

+1cc to Mr.S.F.Mohamed Yousuf, Advocate Sr. 63150

H.C.P.No.982 of 2017

SV(CO)  
VR(01/09/2017)



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