

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.07.2017

CORAM

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

H.C.P.No.2223 of 2016

Santhi .. Petitioner/Detenue's
Wife
Vs

1.The State of Tamil Nadu
Rep. by its Secretary of the Government,
Home Prohibition and Excise [XVI] Department,
Fort St. George, Secretariat,
Chennai-9.

2.The Detaining Authority,
The District Collector and District Magistrate,
Coimbatore 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 detaining authority/the District Collector and District Magistrate, Coimbatore District, the 2nd respondent herein made in Ref Cr.M.P.No.28/D.O/2016/E1 dated 10.10.2016 detaining the detenu Dharman @ Dharmaraj, S/o.Kaliappagounder, aged 49 years under Tamil Nadu Act 14 of 1982 as a Drug Offender and was confined in Central Prison, Coimbatore and set aside the same and consequently direct to produce the detenu before this Hon'ble Court and set him at liberty forthwith.

For Petitioner : Mr.P.Kalimuthu

For Respondents : Mr.V.M.R.Rajentran,
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 dated 10.10.2016 passed in Cr.M.P.No.28/D.O/2016/E1 by the Detaining Authority against the detenu by name, Dharman @ Dharmaraj, S/o.Kaliappagounder and quash the same.

2. The Inspector of Police, Anaimalai Police Station as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that on 19.07.2016 at about 3.00 p.m., on the basis of a secret information, the Inspector of Police and others have checked vehicles at Saralapathi Road and ultimately, found a two wheeler bearing registration No.TN41AB 6995 TVS Excel, made a search and found substance of bhang and thereafter, registered a case in Crime No.307/2016 under Sections 8[c] r/w 20[b][ii][c] and 25 of Narcotic Substances Act, 1985 and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

3. The Detaining Authority after considering the averments made in the affidavit and other connected documents, has arrived to a subjective satisfaction to the effect that the detenu has committed the offences mentioned in the First Information Report and ultimately, branded him as drug offender by way of passing the impugned Detention Order and in order to quash the same, the wife of the detenu has filed the present petition as petitioner.

4. On the side of the respondents, counter has been filed, wherein, it is averred to the effect that the Sponsoring Authority, viz., Inspector of Police, Anaimalai Police Station, on the basis of reliable information, at Saralapathi Road has conducted a vehicle check up and ultimately, found that the detenu is in possession of substance of bhang and registered a case in Crime No.307/2016 under Sections 8[c] r/w 20[b][ii][c] and 25 of Narcotic Substances Act, 1985. The Detaining Authority after considering all the materials on record, has rightly branded the detenu as drug offender by way of passing the impugned Detention Order and the same is not liable to be quashed and therefore, the present petition deserves to be dismissed.

5. The learned counsel appearing for the petitioner has contended to the effect that a representation has been given to the concerned authorities. But, the same has not been considered and therefore, the Detention Order in question is liable to be quashed.

6. On the side of the respondents, a proforma has been submitted, wherein, it has been clearly stated to the effect that in between column Nos.7 and 9, five clear working days are available. Likewise, in between column Nos.12 and 13, twenty one clear working days are available and no explanation has been given on the side of the respondents 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.

7. In fine, this Habeas Corpus Petition is allowed. The Detention Order dated 10.10.2016 passed in Cr.M.P.No.28/D.O/2016/E1 by the second respondent against the detenu by name, Dharman @ Dharmaraj, S/o.Kaliappagounder 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 VIII)

/true copy/

Sub Asst. Registrar

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To

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

2.The Detaining Authority,
The District Collector and District Magistrate,
Coimbatore District.

3.The Joint Secretary to Government,
Public (L&O),
Fort St.George,Chennai-9.

4.The Superintendent,Central Prison, Coimbatore
(In Duplicate for communication to the Detenue)

5.The Public Prosecutor,
High Court, Madras.

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ss(6/7/2017)

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