

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.07.2017

CORAM

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

H.C.P.No.2307 of 2016

Sulaiman

.. Petitioner

Vs

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

2.The Commissioner of Police,
Greater Chennai Police,
O/o.The Commissioner of Police [Goondas Section],
Vepery, Chennai-7.

3.The Superintendent of Police,
Central Prison,
Puzhal, Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the entire records connected with the detention order of the 2nd respondent in No.1094/BCDFGISSSV/2016 dated 04.10.2016 and quash the same and direct the respondents to produce the body and person of the petitioner's son namely Beermohamed @ Kullabai, aged 28 years, S/o.Sulaiman was detained as a goonda and lodged in Central Prison, Puzhal, Chennai before this Hon'ble Court and set him at liberty forthwith.

For Petitioner : Mr.P.Palanikumar

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 records relating to the detention order passed in No.1094/BCDFGISSSV/2016 dated 04.10.2016 by the Detaining Authority against the detenu by name, Beermohamed @ Kullabai,

aged 28 years, S/o.Sulaiman, residing at No.20, Nethaji Street, Arignar Anna Colony, Kilambakkam, Chennai-48 and quash the same.

2. The Inspector of Police, S-6, Sankar Nagar 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. S-6 Sankar Nagar Police Station Crime No.3713/2015 registered under Section 397 of Indian Penal Code.
- ii. S-6 Sankar Nagar Police Station Crime No.1956/2016 registered under Sections 341, 294[b], 392 and 506[ii] of Indian Penal Code.

3. Further, it is averred in the affidavit that on 16.08.2016, one Selvam, S/o.Natesan, as de facto complainant has given a complaint against the detenu in S-6 Sankar Nagar Police Station and the same has been registered in Crime No.1958/2016 under Sections 341, 294[b], 336, 427, 397 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 documents, has arrived at a subjective satisfaction 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, a detailed counter has been filed, wherein, it has been contended to the effect that most of the averments made in the petition are false. The Sponsoring Authority has supplied all the relevant materials to the Detaining Authority. The Detaining Authority after considering all the relevant materials, has arrived at a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, passed the impugned Detention Order and the same does not suffer from any infirmity nor illegality and therefore, the present petition deserves to be dismissed.

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of the petitioner a representation has been submitted to the concerned authorities. But, 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 that the representation given by the petitioner has been disposed of without delay and therefore, 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 between column Nos.7 and 9, 5 clear working days are available. Likewise, in between column Nos.12 and 13, 34 clear working days are available and no explanation has been given on the side of the respondents, with regard to such 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 04.10.2016 passed in No.1094/BCDFGISSSV/2016 by the Detaining Authority against the detenu by name, Beermohamed @ Kullabai, aged 28 years, S/o.Sulaiman, residing at No.20, Nethaji Street, Arignar Anna Colony, Kilambakkam, Chennai-48 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

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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.
- 2.The Commissioner of Police,
Greater Chennai Police,
O/o.The Commissioner of Police [Goondas Section],
Vepery, Chennai-7.
- 3.The Superintendent of Police,
Central Prison,
Puzhal, Chennai.
- 4.The Joint Secretary
Public Law and Order
Secretariat, Chennai-9
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2307 of 2016

GJ(CO)
NR 14/07/2017