

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.07.2017

CORAM

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

H.C.P.No.2364 of 2016

M.Suseela

.. Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.

2.The Commissioner of Police,
Greater Chennai City Police,
Vepery, Chennai-7.

... 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 2nd respondent in No.1076/BCDFGISSSV/2016 dated 26.09.2016 against the detenu Mani @ Bakery Mani, S/o.Palani, Hindu, Male aged about 26 years, who is now confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.P.Parthipan

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 No.1076/BCDFGISSSV/2016 dated 26.09.2016 by the Detaining

Authority against the detenu by name, Mani @ Bakery Mani, aged 26 years, S/o.Palani and quash the same.

2. The Inspector of Police, H-1 Washermenpet 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. H-1 Washermenpet Police Station Crime No.673/2016 registered under Sections 341 and 307 of Indian Penal Code.

ii. H-1 Washermenpet Police Station Crime No.674/2016 registered under Sections 341, 294[b], 323, 307, 336, 427 and 506[iii] of Indian Penal Code.

3. Further, it is averred in the affidavit that on 18.07.2016, one Shahinshah as de facto complainant has given a complaint against the detenu and others in H-1 Washermenpet Police Station and the same has been registered in Crime No.677/2016 under Sections 341, 294[b], 323, 307, 336, 427 and 506[iii] 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 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, a counter has been filed, wherein, it is averred to the effect that most of the averments made in the petition are false. The Sponsoring Authority has supplied all the materials to the Detaining Authority. The Detaining Authority after considering all the materials supplied to him, has arrived at a subjective satisfaction to the effect that the detenu is a habitual offender and rightly, branded him as goonda by way of passing the impugned Detention Order and the same does not require any interference and therefore, the present petition deserves to be dismissed.

6. Learned counsel appearing for the petitioner has contended that on the side of the detenu, a representation has been given 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 alleged to have been given on the side of the petitioner has been duly 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, 7 clear working days are available. Likewise, in between column Nos.12 and 13, 24 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 26.09.2016 passed in No.1076/BCDFGISSSV/2016 by the Detaining Authority against the detenu by name, Mani @ Bakery Mani, aged 26 years, S/o.Palani is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

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

2.The Commissioner of Police,
Greater Chennai City Police,
Vepery,
Chennai-7.

3.The Superintendent,
Central Prison,
Puzhal, Chennai(In Duplicate for communication to Detenue)

4.The Inspector of Police,
Law & Order,
H1,Warnamenpet Police Station,
Chennai

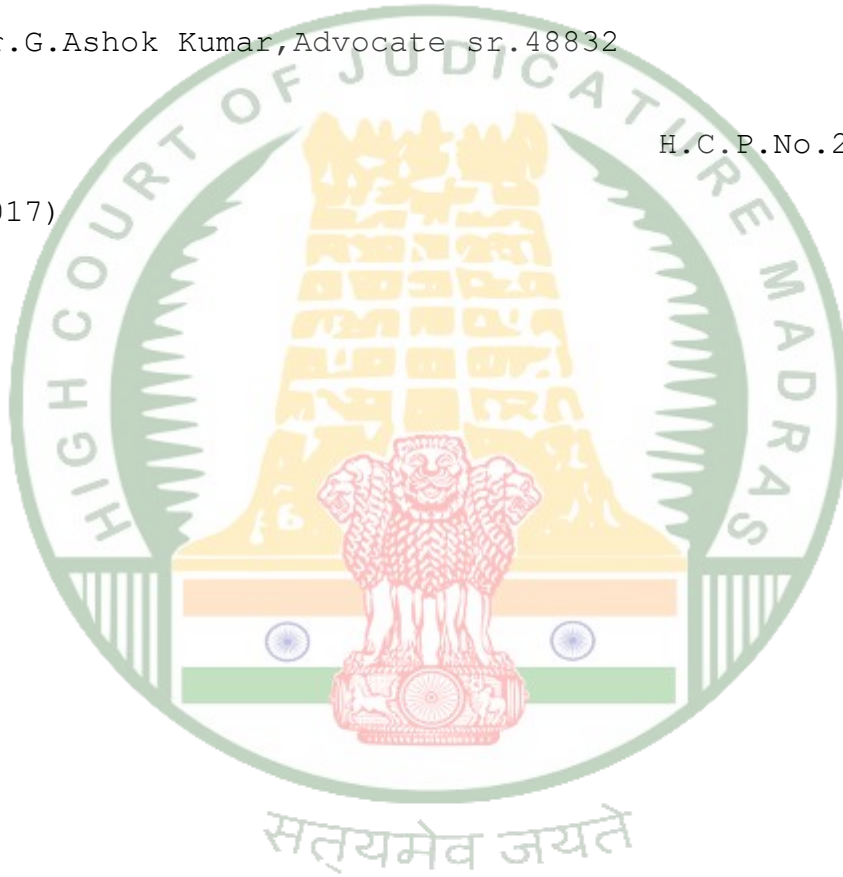
5.The Joint Secretary to Government,
Public (Law & Order),
Fort St.George,Chennai-09.

6.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.G.Ashok Kumar,Advocate sr.48832

H.C.P.No.2364 of 2016

kjI(co)
ss(14/7/2017)



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