

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.07.2017

CORAM

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

H.C.P.No.2554 of 2016

Udayakumar

.. Petitioner

Vs

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

2.The District Collector and District Magistrate
Krishnagiri District
Krishnagiri

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to produce the body of the detenu by name M.Udayakumar, S/o.(late) Munireddy, presently confined at Central Prison, Salem before this Court and set him at liberty forthwith after calling for the records pertaining to the detention order dated 28.10.2016 made in S.C.No.40 of 2016 passed by the second respondent and quash the same.

For Petitioner : Mr. A.Saravanan

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 the records relating to the detention order passed in S.C.No.40 of 2016 dated 28.10.2016, against the detenu by name, Udayakumar, S/o. (Late) Munireddy, aged 25 years, residing at Mathgoor Village, Mathakondappally Post, Denkanikottai Taluk, Krishnagiri District and quash the same.

2. The Inspector of Police, Thalli Police Station, as

Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred that on 24.08.2016, one Swetha, w/o.Udayakumar, residing at Pallappally Village, Devarulimangalam Post, Denkanikottai Taluk, as defacto complainant, has given a complaint in Thalli Police Station wherein it is stated that on 24.08.2016, the body of the daughter of the defacto complainant was found and under such circumstances, a case has been registered in Crime No.214 of 2016 under Section 174 of the Criminal Procedure Code, 1973. The Inspector of Police, Denkanikottai Police Station, after receipt of copies of complaint, has taken up investigation and on the basis of the information, he arrested the detenu on 24.08.2016. The detenu has given a confession and subsequently the Inspector of Police has made further investigation 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 materials and also after considering the grievous nature of the offence alleged to have been committed by the detenu, 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 detenu himself, as petitioner.

4. In the counter filed on the side of the respondents, it is averred that most of the averments made in the petition are false. The Sponsoring Authority has submitted all the relevant materials to the Detaining Authority. The Detaining Authority, after considering the relevant materials and connected documents, has derived a subjective satisfaction to the effect that the detenu has committed a grievous offence and has rightly branded him as "Goonda" by way of passing the impugned detention order and the same does not call for any interference and therefore, the present petition deserves to be dismissed.

5. 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.

6. 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 contention put forth on the side of the petitioner is liable to be rejected.

7. 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, 25 clear working days and in between Column Nos.12 and 13, 6 clear working days are available and no explanation has been given on the side of the respondents with regard to such huge delay and that 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.

8. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 28.10.2016 passed in S.C.No.40 of 2016 by the second respondent against the detenu by name, Udayakumar, S/o.(Late) Munireddy, aged 25 years, residing at Mathgoor Village, Mathakondappally Post, Denkanikottai Taluk, Krishnagiri District is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gpa

To

- 1.The Secretary to Government
Home, Prohibition and Excise Department
Fort St. George
Chennai - 600 009
- 2.The District Collector and District Magistrate
Krishnagiri District
Krishnagiri
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The Superintendent, central Prison, Salem.
- 5.The Joint Secretary to Government, Public (Law & Order),
Fort.St.George, Chennai.

+1cc to M/s.A.Saravanan, Advocate SR.No.50503

H.C.P.No.2554 of 2016

RSK(CO)
GN(19/07/2017)