

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.07.2017

CORAM

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

H.C.P.No.2660 of 2016

Indra .. Petitioner/Mother of
Detenue
Vs

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

2.The Commissioner of Police
Greater Chennai
Veppery, Chennai - 600 007 .. 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 second respondent dated 22.11.2016 in BCDFGISSSV No.1177/2016 against the petitioner's son, the detenu herein, now confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu Thiru.Arun, S/o.Elumalai, aged about 25 years before this Court and set him at liberty.

For Petitioner : Mr.A.Nirmal Kumar

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 BCDFGISSSV No.1177/2016 dated 22.11.2016 against the detenu by name, Arun, S/o.Elumalai by the Detaining Authority and quash the same.

2. The Inspector of Police, Secretariat Colony Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is stated that the detenu has involved in the following adverse cases:-

- i. G5, Secretariat Colony Police Station, Crime No.1376/2015, registered under Sections 341, 294(b), 392, 397 and 506 (ii) of Indian Penal Code; and
- ii. G5, Secretariat Colony Police Station, Crime No.1389/2015, registered under Sections 341, 294(b), 427, 336, 397, 307 and 506(ii) of Indian Penal Code.

3. Further, it is averred in the affidavit that on 11.10.2016, one Venkatesan, S/o.Venugopal, as defacto complainant, has given a complaint in Secretariat Colony Police Station against the detenu and the same has been registered in Crime No.713/2016 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 also all the materials placed before him, has arrived at a subjective satisfaction to the effect that the detenu is a professional offender and ultimately, branded the detenu as goonda by way of passing the impugned Detention Order and in order to quash the same, the mother of the detenu has filed the present petition.

5. On the side of the respondents, a counter has been filed, wherein, it is contended inter alia to the effect that most of the averments mentioned in the affidavit are false and the Sponsoring Authority has submitted relevant particulars to the Detaining Authority and the Detaining Authority after considering all the materials placed before him, has rightly invoked Act 14 of 1982 by way of passing the impugned detention order and there is no infirmity in the order passed by the Detaining Authority and therefore, the present petition deserves to be dismissed.

6. 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 disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. Per contra, the learned Additional Public Prosecutor has represented that the representation given by the detenu has been duly disposed of without delay and therefore, the present petition deserves to be dismissed.

8. On the side of the respondents, a proforma has been submitted, wherein, it has been clearly stated that in between column Nos.6 and 8, six clear working days are available and in between column Nos.11 and 12, 4 clear working days are available and no explanation has been given for the delay in disposing of such representation and that the same would affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 22.11.2016 passed in BCDFGISSSV No.1177/2016 by the second respondent against the detenu by name, Arun, S/o.Elumalai is quashed and the detenu is set 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 Commissioner of Police
Greater Chennai
Veppery, Chennai - 600 007

3. The Superintendent
Central Prison Puzhal Chennai

4.The Joint secretary to Government
Public Law and Order
Fort St.George Secretariat
Chennai-9

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2660 of 2016

mvs (co)
aa05/07/2017



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