

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.11.2017

Coram

THE HON'BLE MR.JUSTICE RAJIV SHAKDHER
&
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.No.1017 of 2017

Arasayi

... Petitioner

Vs.

1.State of Tamil Nadu
Rep. By the Secretary,
Home, Prohibition and Excise Department
Fort St. George, Chennai - 9.

2.District Collector and District Magistrate
Office of the District Collector and
District Magistrate,
Cuddalore District.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records relating to the detention order in No.C3/D.O/29/2017, dated 23.05.2017 passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's son Amudhan, S/o.Arumugam, aged about 28 years the detenu, now confined in Central Prison, Cuddalore before this Court and set the petitioner's son Amudhan, S/o.Arumugam, aged about

28 years the detenu herein at liberty.

For Petitioner : Mr.U.Yuvaraj

For Respondents : Mr.V.M.R.Rajentran,

Addl. Public Prosecutor.

ORDER

(Order of the Court was made by **RAJIV SHAKDHER, J**)

1.This is a petition seeks to assail the detention order dated 23.05.2017.

2. The only case, which is the subject case that has led to the detention of the detenu, is Crime No.58 of 2017. The detenu has been booked in this case under Sections 147, 148, 341, 506(ii), 302 r/w 379 I.P.C.

3. A perusal of paragraph No.5 of the impugned order shows that even according to the Detaining Authority, the detenu has not moved any bail petition. Furthermore, the record shows that the detenu was arrested on 06.04.2017. It appears that the Detaining Authority has entertained an apprehension that the detenu will be enlarged on bail, as in a similar case, bail was granted by this Court on, 26.06.2017, in Crl.O.P.11074/2016.

4. We have heard the learned counsel for the parties as well as the

learned Additional Public Prosecutor and perused the records.

5. According to us, the impugned order cannot be sustained for the following reasons:

(i) First, the detenu was arrested on 06.04.2017 and the impugned order was passed after nearly month and a half, i.e., on 23.05.2017. As is evident, there has been a considerable delay in passing the impugned order.

(ii) Second, even according to the Detaining Authority the detenu has not moved a bail petition in Crime No.58 of 2017.

(iii) Third, the only reason, which the Detaining Authority has given in the impugned order for entertaining the apprehension that the detenu may be enlarged on bail, is that, in some other case, bail was granted and that too on 26.06.2016. There is no similarity, according to us, in respect of a case, where, bail was given, nearly, 11 months prior to the date, when, the impugned detention order was passed.

6. According to us, for the reasons given above, we are of the view that the detention order needs to be quashed. It is ordered accordingly.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.C3/D.O/29/2017, dated 23.05.2017, passed by the second respondent is set aside. The detenu, namely, Amudhan, S/o.Arumugam, male, aged about 28 years, is directed to be released forthwith unless his detention is required in connection with any other case. Given the nature of the case, this order will be communicated to the concerned Jail Superintendent by the Registrar General of this Court via Fax.

(R.S.A., J.)

(N.S.K., J.)

08.11.2017

Index : yes/no

vsm

Note: Issue order copy today

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To

- 1.The Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai - 9.
- 2.District Collector and District Magistrate
Office of the District Collector and
District Magistrate,
Cuddalore District.
- 3.The Superintendent,
Central Prison,
Cuddalore.
- 4.The Public Prosecutor,
Madras High Court,
Chennai.



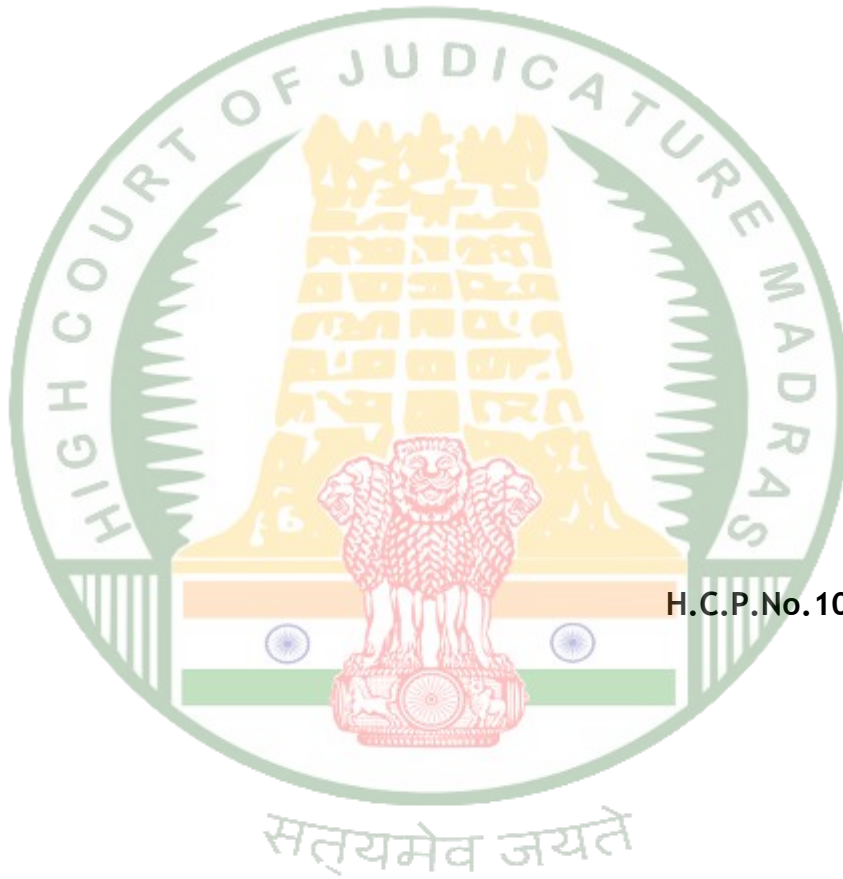
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RAJIV SHAKDHER, J.

and

N.SATHISH KUMAR, J.

vsm



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