

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.11.2017

Coram

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

H.C.P.No.1141 of 2017

Vedavalli

... Petitioner

Vs.

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

2.The District Collector-cum-District Magistrate
Vellore District,
Vellore.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records pertaining to the order of detention passed by the 2nd respondent herein dated 18.06.2017 made in C3/D.O.No.57/2017 against the detenu Thiru.Pradhap, male aged 26 years, S/o.Palani, who is now confined in Central Prison, Vellore, and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.T.Vijayaraghavan
For Respondents : Mr.V.M.R.Rajentran,
Addl. Public Prosecutor.

O R D E R

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

1. This is a petition, which seeks to challenge the detention order dated 18.06.2017.

2. Notice in this petition was issued on 05.07.2017. Despite opportunities, being given to the State, no counter affidavit has been filed to date. Therefore, the assertions made in the petition have remain uncontroverted.

3. A perusal of the detention order would show that two (2) adverse cases have been noted qua the detenu. These being : Crime Nos.48 of 2017 and 192 of 2017. Insofar as these cases are concerned, the detenu has been booked under sections 302, 147, 148, 294(b), 120(B) and 302 IPC and 392 of the IPC respectively.

4. A perusal of the impugned order shows that insofar the subject case is concerned, it is registered as : Crime No.109 of 2017. In this case, the detenu has been booked under Sections 294(b), 341, 506(ii), 392 r/w 397 of the IPC. The record shows that the detenu was arrested on 28.05.2017.

5. Having heard the learned counsel for the petitioner and the learned Additional Public Prosecutor and examined the record, we are of the view that the impugned order cannot be sustained for the following reasons:

(i) First, even though the detenu was arrested on 28.05.2017, the detention order was passed after much delay, i.e., on 18.06.2017.

(ii) Second, a perusal of the impugned order would show that even according to the Detaining Authority, the bail application filed by him in the subject case (Crime No.109 of 2017) is pending. The only reason, which the Detaining Authority furnishes for entertaining the apprehension that the detenu may be released on bail, is by adverting to a similar case of 2015 (Crl.M.P.No.1643 of 2015). The date of the order passed in Crl.M.P.No.1643 of 2015 has not been alluded to in the impugned order. According to us, none of these factors can be relied upon by the Detaining Authority to entertain the apprehension that there is real and imminent possibility of the detenu being released on bail.

6. Therefore, for the aforementioned reasons, we are inclined to quash the impugned order. It is ordered accordingly.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in C3/D.O.No.57/2017 dated 18.06.2017, passed by the second respondent is set aside. The detenu, namely, Pradhap, S/o.Palani, male, aged about 26 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.

Sd/-

Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

vsm

To

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

2.The District Collector-cum-District Magistrate
Vellore District,
Vellore.

3.The Superintendent,
Central Prison,
Vellore.

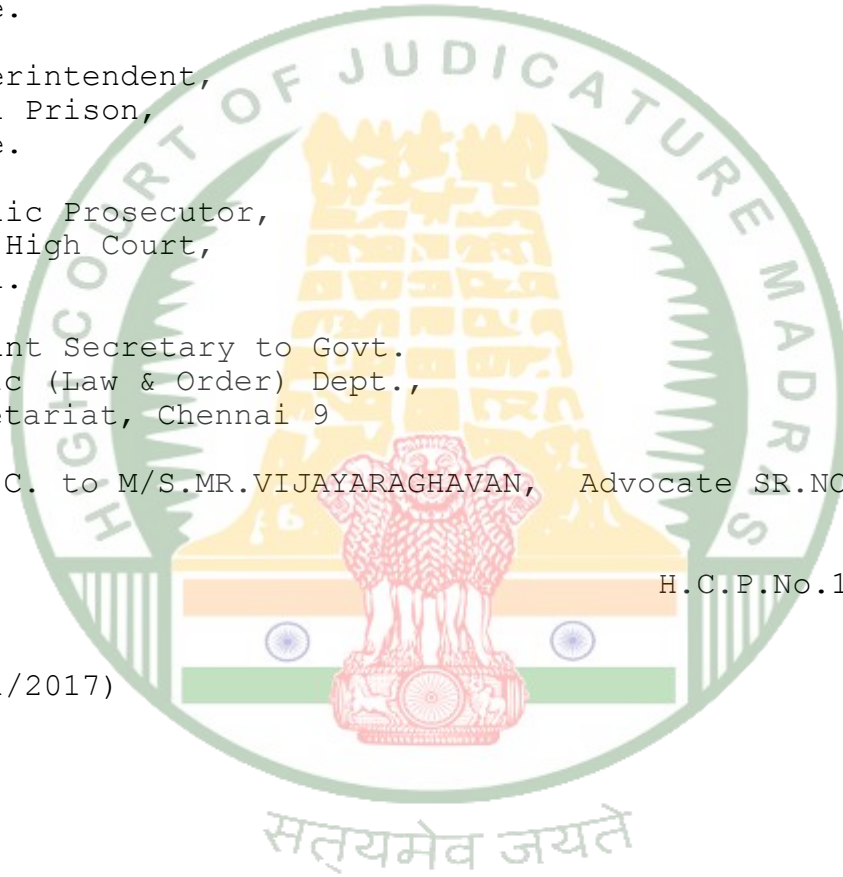
4.The Public Prosecutor,
Madras High Court,
Chennai.

5. The Joint Secretary to Govt.
Public (Law & Order) Dept.,
Secretariat, Chennai 9

+1 C.C. to M/S.MR.VIJAYARAGHAVAN, Advocate SR.NO. 79804

H.C.P.No.1141 of 2017

T.R (10/11/2017)



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