

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. No.1232 of 2017

Latha

... Petitioner

-vs-

1.State of Tamil Nadu,
Represented by its Secretary,
Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

2.The Commissioner of Police,
Salem City,
Salem.

3.The Inspector of Police,
Annadhanapatty Police Station,
Salem District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records of the detention order in C.M.P.No.37/Goonda/Salem City dated 15.06.2017, on the file of the Second Respondent herein, and quash the same and direct the Respondents herein to produce the body of the detainee Ranjith @ Ranjithkumar, son of Vigneswaran Hindu aged about 24 years who is now confined in Central Prison, Salem before this Court, and set him at liberty.

For Petitioner : Mr.C.P.Pazhanisamy

for M/s.C.Selvaraj

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

Additional Public Prosecutor

O R D E R

[Order of the Court was made by RAJIV SHAKDHER, J.]

1. This is a petition, whereby, challenge is laid to the detention order dated 15.06.2017. There are two adverse cases, adverted to in the detention order.

1.1. In the first case registered against the detainee, he has been accused of having committed offences under Section 394 read with 397 of IPC. In so far as the second case is concerned, the detainee has been accused of having committed the offences under Sections 387 and 506(ii) of IPC. The criminal case, based on which, the detainee has been detained under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982, (T.N.Act 14 of 1982), the offences, he has been accused of pertains to Sections 341, 392 read with Section 397, 336 and 506 (ii) of IPC. This case has been registered with Annadanapatty Police Station and has been accorded Crime No.195 of 2017.

2.The detenu has been in custody since 04.05.2017. The detaining authority justifies the detenu's detention on the ground that, in a similar case, bail had been granted. The proceedings referred to are numbered as CrI.O.P.No.25955 of 2012, and are dated 19.11.2012.

3.The detention order, however, discloses that insofar as Crime No.195 of 2017 is concerned, the detenu had filed a bail petition (C.M.P.No.2110 of 2017), which was dismissed on 12.06.2017.

4.Having regard to what is stated in the impugned order, we are of the view, there has been a non-application of mind by the detaining authority. In Crime No.195 of 2017, the bail application moved by the detainee was, admittedly, dismissed by the learned Principal Sessions Judge, Salem, as noted above. The fact that, in the similar cases, that too, in 2012, bail was granted can be no reason to detain the detenu. There has been, as indicated above, consideration of irrelevant material by the detaining authority, while, passing the impugned order. In these circumstances, the detention order is liable to be quashed.

4.1. Furthermore, notice in the petition was issued as far back on 13.07.2017. No counter affidavit has been filed, despite five hearings having taken place, albeit, on various dates. The assertions made by the petitioner, who is the mother of the detainee, Ranjith @ Ranjithkumar remain uncontroverted.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.37/Goonda/Salem City/2017 dated 15.06.2017, passed by the 2nd respondent is set aside.

The detenu, namely, Ranjith @ Ranjithkumar, S/o.Vigneswaran, Male, aged about 24 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.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

mps

To:

1. The Secretary to Government,
Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
2. The Commissioner of Police,
Salem City, Salem.
3. The Inspector of Police,
Annadhanapatty Police Station,
Salem District.
4. The Superintendent
Central Prison
Salem.
5. The Joint Secretary,
Public , Law and Order
Fort.St.George, Chennai.
6. The Public Prosecutor,
Madras High Court,
Madras

+1 CC to Mr.C. Selvaraj, Advocate sr 76498

H.C.P.No.1232 of 2017

SP(30/10/2017)