

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

And

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.No. 1242 of 2017

P.Santhiya ... Petitioner/wife of the
detenue

-vs-

- 1.The Secretary to Government,
Government of India,
Ministry of home affairs,
(Department of Internal Security)
North block,
New Delhi - 110 001.
- 2.The Additional Secretary to Government., (Home),
Government of Puducherry,
Chief Secretariat,
Gubert Avenue,
Puducherry - 605 001.
- 3.The District Collector and District Magistrate,
1st Floor, Vazhadvavoor Road,
Kavundanpalayam,
Puducherry - 605 009. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records in No.02/DM/RO/D2/PPASAA/2017 dated 12.06.2017 on the file of the 3rd respondent and quash the same as illegal and consequently direct the respondents to produce the petitioner's husband SIVAKUMAR @ TRACK SIVA @ SIVA, S/o. Veerappan, aged about 30 years, who now detained in Central Prison, Kalapet, Puducherry, before this Hon'ble Court and set him at Liberty.

For Petitioner : Mr.Ilayaraja Kandasamy
for M/s.K.Gandhi Kumar

For Respondents : Mr.Arockiam, CGSC for R1
Mr.Bharatha Chakravarthy
Public Prosecutor (Pondicherry)
for R2 and R3

O R D E R

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

1. This is a petition, which seeks to assail the detention order dated 12.06.2017. The detaining authority has adverted to nineteen (19) adverse cases qua the detenue.

2. A perusal of the detention order shows that out of nineteen (19) cases lodged against the detenue, he has obtained acquittal in seven (7) cases. In two (2) cases, the detenue has been convicted. Trial is pending in seven (7) cases. Two (2) cases are under investigation, while one (1) case is yet to be taken on file by the concerned Court.

3. Insofar as the subject case is concerned, the same is registered as Crime No.23 of 2017.

4. Learned counsel for the petitioner has assailed the impugned order on the following grounds:

(i) First, that there was a delay in passing the impugned order. The detenue was arrested on 31.03.2017 in Crime No.23 of 2017, while the detention order was passed on 12.06.2017.

(ii) Second, there is no likelihood of the detenue, being released, as the bail petition (CrI.MP.No.8 of 2017) was rejected on 04.05.2017.

(iii) Third, illegible copies of the documents, based on which, the impugned order has been passed, have been supplied. In this behalf, reference was made to Pages 21, 1, 120, 124, 135, 136, 137, 164, 18 and 215.

4.1. For all these reasons, learned counsel for the petitioner submits that the detention order deserves to be quashed.

5. Mr. V.M.R. Rajentran, learned Additional Public Prosecutor, on the other hand, relies upon the detention order to resist the petition.

6. We perused the record and heard the learned counsels for the parties.

7. We are of the view, the submissions made by the learned counsel for the petitioner have merit to a large extent. The record shows that in subject case, i.e., Crime No.23 of 2017,

the detainee was arrested on 31.03.2017. As indicated above, the detention order was passed on 12.06.2017. There is a considerable amount of delay in passing the detention order.

8. Furthermore, as correctly argued on behalf of the petitioner, the bail petition in Crime No.23 of 2017 preferred by the detainee was dismissed on 04.05.2017. In these circumstances, the likelihood of the detainee being enlarged on bail cannot be imminent. Besides this, counsel for the petitioner is right to some extent that some of the pages pointed out by him are indeed illegible, more particularly, pages bearing No.120, 164, 187 and 215.

9. Given these circumstances, we are inclined to quash the impugned order. It is directed, accordingly.

10. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.02/DM/RO/D2/PPASAA/2017 dated 12.06.2017, passed by the 3rd respondent is set aside. The detainee, namely, Sivakumar @ Tack Siva @ Siva, Son of Veerappan, Male, aged about 30 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(CS V)

//True Copy//

Sub Assistant Registrar

mps

To

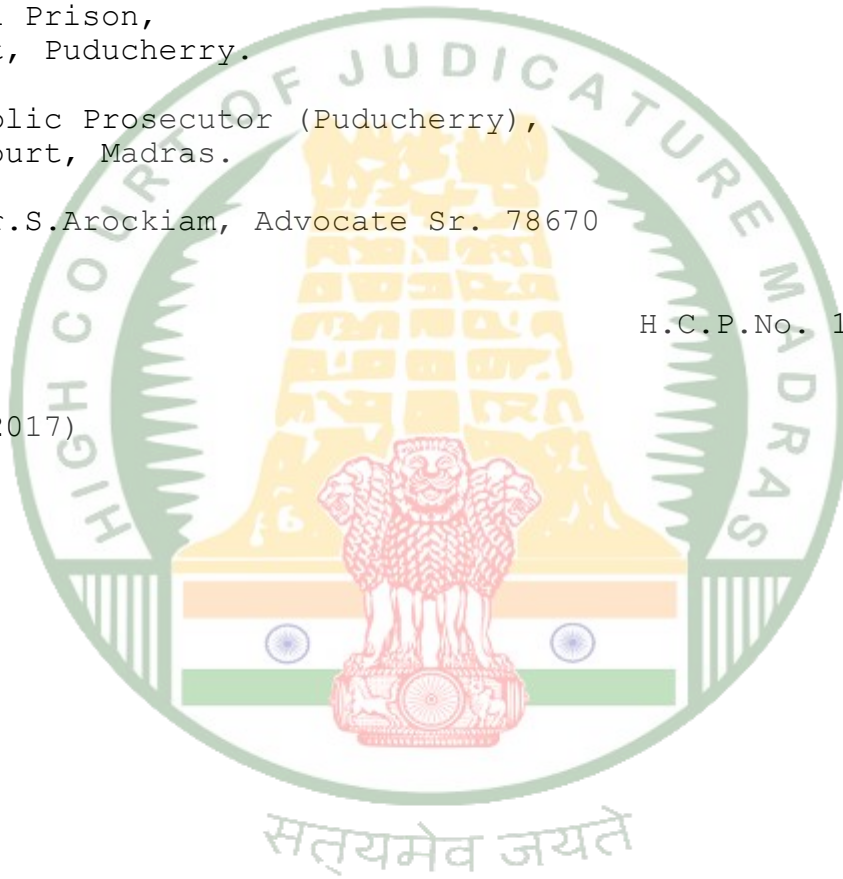
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4. The Chief Superintendent of Jails,
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Kalapet, Puducherry.
5. The Public Prosecutor (Puducherry),
High Court, Madras.

+lcc to Mr.S.Arockiam, Advocate Sr. 78670

H.C.P.No. 1242 of 2017

AR(V)
VR(07/11/2017)



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