

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.1254 of 2017

K.Punitha

... Petitioner

-vs-

The State represented by its

1.The Secretary to Government (Home),
Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 600 009.

2.The District Collector and District Magistrate,
Salem District
Salem.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records of pertaining to the order of detention dated 24.06.2017 passed by the 2nd respondent in C.M.P.No.35/Goonda/C2/2017 and quash the same produce my husband, the detenu, Karunakaran aged about 26 years S/o.Murugesan detained at Central Prison, Salem before this Court and set him at liberty.

For Petitioner : Mr.Dr.S.Manoharan
For Respondents: Mr. V.M.R.Rajentran
Additional Public Prosecutor

O R D E R

[Order of the Court was made by N.SATHISH KUMAR, J.]

The petitioner is the wife of the detenu, namely, Karunakaran, Son of Murugesan, Male, aged about 26 years. The detenu has been detained by the 2nd respondent by his order in C.M.P.No.35/Goonda/C2/2017 dated 24.06.2017, holding him to be a " Goonda", as contemplated under 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. The learned counsel for the petitioner would submit that the detaining authority, despite the fact that the bail application filed by the detenu in Crime No.114 of 2017 was dismissed, has inferred that the detenu is likely to be released on bail. Hence, it is stated that the Detaining Authority has passed the impugned order of detention in total non-application of mind and the subjective satisfaction arrived at by the Detaining Authority that there is real possibility of the detenu coming out on bail, is a mere ipse dixit without any cogent materials.

4. Despite opportunities, no counter affidavit has been filed by the respondents. However, the learned Additional Public Prosecutor would submit that the order of detention has been passed on cogent and sufficient materials and the same cannot be interfered with at the instance of the petitioner.

5. On a perusal of the impugned order of detention, we find that the Detaining Authority has stated that there was a real possibility of the detenu coming out on bail. Admittedly, the bail application filed by the detenu in Crime No.114 of 2017 was dismissed. Though the detaining authority has made reliance on similar case in which accused was granted bail, the facts involved in that case are different, there is no material to substantiate that there is real possibility of the detenu coming out on bail and the said order was passed mechanically without application of mind. Therefore, on this ground, the detention order is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.35/Goonda/C2/2017 dated 24.06.2017, passed by the 2nd respondent is set aside. The detenu, namely, Karunakaran, Son of Murugesan, 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(CS VI)

//True Copy//

Sub Assistant Registrar

mps

To:

- 1.The Secretary to Government (Home),
Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Salem District
Salem.
- 3.The Superintendent, Central Prison,
Salem.
- 4.The Public Prosecutor,
Madras High Court,
Madras
5. The Joint Secretary to Government
of Tamil Nadu Law and order Public Fort St.George
Chennai-600 009

H.C.P. No.1254 of 2017

aa30/10/2017



WEB COPY