

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2017

CORAM:

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

H.C.P. No.1272 of 2017

T.Priya

... Petitioner

-VS-

1. State of Tamil Nady
Rep. By the Secretary
Home (Prohibition and Excise Department)
Secretariat, Chennai - 600 009.
2. The District Revenue Officer District Magistrate
and District Collector
(Full Additional Charge)
Tiruvallur District
Tiruvallur.
3. The Superintendent
Central Prison - II
Puzhal, Chennai - 66.

... 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 No.21/BCDFGISSSV/2017 dated 04.07.2017 passed by the second respondent under Tamil Nadu Act 14/1982 and quash the same and direct the respondent to produce the detenu Tamilarasan aged about 32 years son of Thunbazhagan now confined in Central Prison-II, Puzhal before this Court and set the detenu, Tamilarasan aged about 32 years son of Thunbazhagan set at liberty.

For Petitioner : Mr.V.Parthiban for Mr.P.Krishnan
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 husband of the detenu, namely, Tamilarasan, S/o.Thunbazhagan, Male, aged about 32 years. The detenu has been detained by the 2nd respondent by his order in No.21/BCDFGISSSV/2017 dated 04.07.2017, 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 has passed the order of detention on the ground that in the similar case in Crime No.2184 of 2014 on the file of Nollambur Police Station, bail was granted to the co-accused and hence, there is imminent possibility of the detenu to come out on bail in the said case. Hence, it is submitted that the Detaining Authority has passed the order of detention mechanically without application of mind.

4. Per contra, the learned Additional Public Prosecutor while reiterating the averments in the counter affidavit 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. Though the detaining authority has made reliance on similar cases in which accused were granted bail, the facts involved in those cases are different. Hence, 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 No.21/BCDFGISSSV/2017 dated 04.07.2017, passed by the 2nd respondent is set aside. The detenu, namely, Tamilarasan, S/o.Thunbazzhagan, Male, aged about 32 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

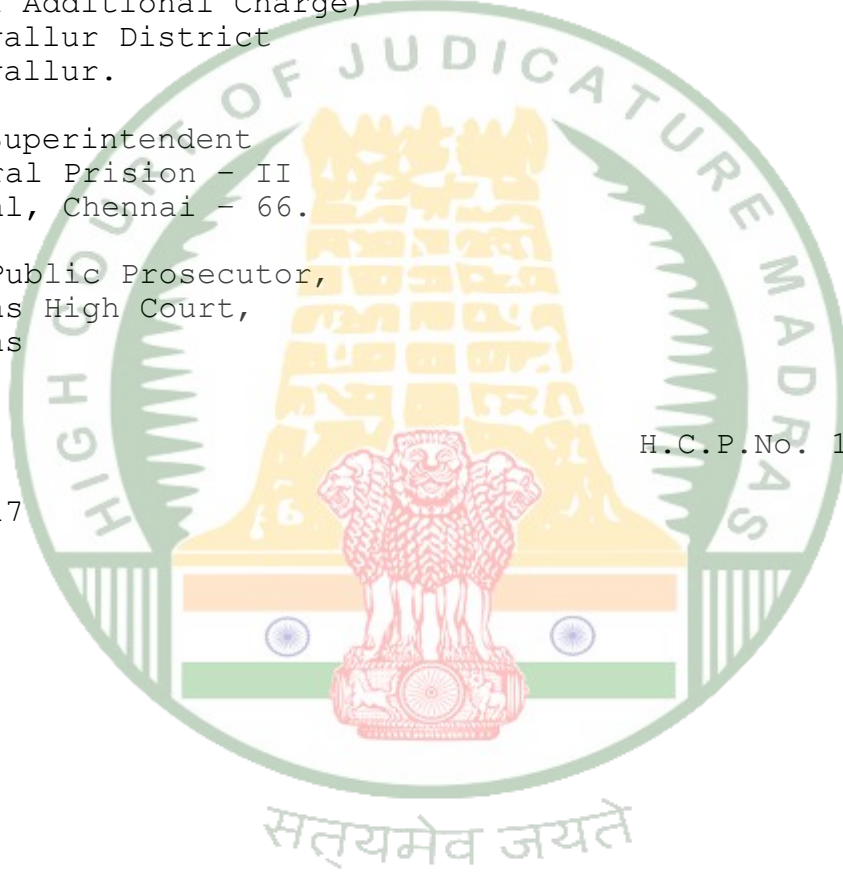
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To:

1. The Secretary
Prohibition and Excise Department (Home)
Fort. St.George, Chennai - 600 009
2. The Joint Secretary
Prohibition and Excise Department (Home)
Fort. St.George, Chennai - 600 009
3. The District Revenue Officer District Magistrate
and District Collector
(Full Additional Charge)
Tiruvallur District
Tiruvallur.
4. The Superintendent
Central Prison - II
Puzhal, Chennai - 66.
5. The Public Prosecutor,
Madras High Court,
Madras

H.C.P.No. 1272 of 2017

CS/14/10/17



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