

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2017

CORAM:

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

H.C.P. No.1282 of 2017

Vanitha

... Petitioner

-vs-

1.The State of Tamil Nadu

Represented by its Secretary to Government,
Prohibition and Excise Department (Home)
Fort St.George, Chennai - 600 009.

2.The Commissioner of Police

The Commissioner Office
Vepery, Chennai -600 007

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the entire records, relating to petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide Detention Order, dated 17.06.2017 on the file of the second respondent herein made in proceedings No.361/BCDFGISSSV/2017, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband Senthil (a) Thadi Senthil, son of Shanmugam, aged 42 years before this Court and set him at liberty from detention, now he is detained at Central Prison II, Puzhal, Chennai 600066.

For Petitioner : Mr. C. Chellappan

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, Senthil @ Thadi Senthil male aged 42 years son of Shanmugam. The detenu has been detained by the 2nd respondent by his order in No.361/BCDFGISSSV/2017 dated 17.6.2017, 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 appearing for the petitioner would submit that the bail application in Cr.No.1081 of 2017 filed by the petitioner before the Principal District and Sessions Court, Thiruvallur was dismissed on 09.06.2017. Thereafter, the detenu has not filed any bail application. However, the detaining authority has come to the conclusion that there is real possibility of the detenu coming out on bail.

4. The learned counsel for the petitioner would submit that the booklet supplied to the detenu in which the documents furnished in pages Nos.53,54,55,56,124 and 125 are partly in English, but the Tamil translation for said documents has not been furnished to him. The learned counsel further submitted that the detention of his son was intimated to his family members. Also the arrest of the detenu was not informed to his relatives. On the above grounds the detention order is vitiated.

5. 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. He further states that in Cr.No.848 of 2017 the bail was granted to the petitioner. Hence, the detaining authority infer that there is real possibility of coming out of bail.

6. 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, at the time of passing the Detention Order, no bail application was pending in the adverse case and the ground case. 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.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.361/ BCDFGISSSV / 2017, dated 17.06.2017, passed by the 2nd respondent is set aside. The detenu, namely, Senthil @ Thadi Senthil Male aged 42 years son of Shanmugam, 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/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

ga/ggs

To:

1. The Secretary to Government,
The State of Tamil Nadu
Prohibition and Excise Department (Home)
Fort St.George, Chennai - 600 009.
2. The Commissioner of Police, Greater Chennai police,
The Commissioner Office
Vepery, Chennai -600 007
3. The Superintendent,
Central Prison, II Puzhal, Chennai-66
4. The Joint Secretary to Govt,
Public (Law & Order)
Fort St.George, Chennai-9
5. The Public Prosecutor,
Madras High Court,
Madras

H.C.P.No. 1282 of 2017

BR(CO)
NR 12/10/2017

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