

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. No.1290 of 2017

K.Srisaranya

... Petitioner/Wife of
the Detenue

-vs-

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

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

3. The Inspector of Police,
Sooramangalam 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 dated 14.07.2017 in detention order C.M.P.No.53/Goonda/Salem City/2017, on the file of the second respondent and quash the same and direct the respondents herein to produce the body of the detenue Karthick @ Murali Karthi, son of Thiagarajan, Hindu aged about 30 years who is now confined in Central Prison, Salem, before this Court and set him at liberty.

For Petitioner : Mr. Thamarai Selvan

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, Karthick @

Murali Karthi S/o. Thiyagarajan, Male, aged about 30 years. The detenu has been detained by the 2nd respondent by his order in C.M.P.No.53/Goonda/Salem City/2017 dated 14.7.2017, 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 while passing the detention order failed to note that the similar case particulars provided in the booklet to the detenu is not that of the co-accused and the similar case particulars belongs to some other accused in some other crime numbers. He would further submit that the initial remand order and the remand extension order was not given in the booklet, which shows the detention order is passed in such a hurry manner. The learned counsel for the petitioner would further submit that no bail application is pending. But the detaining authority in the grounds of detention has stated that the detenu is likely to come out on bail, which shows the non application of mind on the part of the detaining authority.

4. Per contra, the learned Additional Public Prosecutor while reiterating the averments 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, at the time of passing the Detention Order, no bail application was pending in the adverse cases and the ground case. 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 C.M.P.No.53/Goonda/Salem City/2017 dated 14.07.2017, passed by the 2nd respondent is set aside. The detenu, namely, Thiru. Karthick @ Murali Karthi, son of

Thiyagarajan, 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.

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

ggs

To:

1. The Secretary to Government
State of Tamil Nadu
Prohibition and Excise Department (Home)
Fort St. George, Chennai - 600 009
2. The Joint Secretary to Government
Public (Law and order)
Fort. St. George
Chennai 9.
3. The Commissioner of Police
Commissioners Office
Salem City, Salem.
4. The Superintendent
Central Prison, Salem
5. The Inspector of Police,
Sooramangalam Police Station,
Salem District.
6. The Public Prosecutor,
Madras High Court,
Madras.

H.C.P.No. 1290 of 2017

SP(25/10/2017)