

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.1320 of 2017

Thanga raj

... Petitioner

-vs-

1. The State represented by its
The Secretary to the Government
Prohibition and Excise Department (Home)
Fort St.George, Chennai - 600 009
2. The District Collector &
District Magistrate,
Krishnagiri District, Krishnagiri ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records pertaining to the order of detention dated 17.07.2017 passed by the 2nd respondent in S.C.No.44 of 2017 and quash the same and produce the detenu, Samraj, S/o. Thangaraj, aged about 24 years 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 father of the detenu, namely, Samraj, S/o. Thangaraj, Male, aged about 24 years. The detenu has been detained by the 2nd respondent by his order in S.C.No.44 of 2017 dated 17.07.2017, 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 the detenu has obtained bail in Crime No.115 of 2017 vide order dated 04.7.2017 in CrI.MP.No.961 of 2017 and hence, there is imminent possibility of him to come out on bail in the said case. However, vide order dated, 14.7.2017 in CrI.MP.No.984 of 2017, the learned District Munsif cum Judicial Magistrate, Uthangarai, has dismissed the bail petition in Crime No.115 of 2017. 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. 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. The Detaining Authority has also stated that the bail was granted to the detenu by the District Principal Sessions Court, Krishnagiri in Crime No.115 of 2017. A copy of the order dated 14.07.2017 passed by the learned District Munsif cum Judicial Magistrate, Uthangarai, has been produced before us. The said order indicates that the bail petition, i.e., CrI.MP.No.984 of 2017, filed by the detenu in Crime No.115 of 2017 was dismissed by the District Munsif cum Judicial Magistrate, Uthangarai, vide order dated 14.07.2017. All these facts clearly indicate that the Detaining Authority has passed the order of detention 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 S.C.No.44 of 2017 dated 17.07.2017, passed by the 2nd respondent is set aside. The detenu, namely, Samraj, son of Thangaraj, aged about 24 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 VIII)

True Copy

Sub-Assistant Registrar

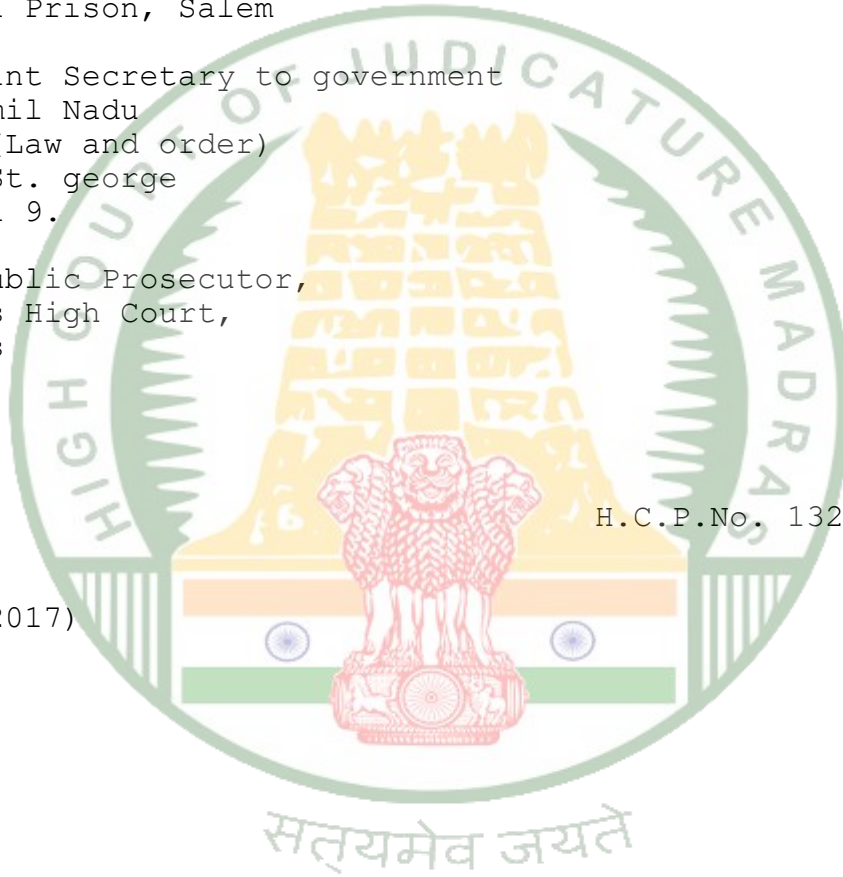
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To:

1. The Secretary
Prohibition and Excise Department (Home)
Fort. St.George, Chennai - 600 009
2. The District Collector &
District Magistrate,
Krishnagiri, Krishnagiri District
3. The Superintendent,
Central Prison, Salem
4. The Joint Secretary to government
of Tamil Nadu
Public(Law and order)
fort. St. george
Chennai 9.
5. The Public Prosecutor,
Madras High Court,
Madras

RSI (CO)
SP(12/10/2017)

H.C.P.No. 1320 of 2017



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