

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.10.2017

Coram

THE HON'BLE MR.JUSTICE RAJIV SHAKDHER
&
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.No.1390 of 2017

Jagathambal

... Petitioner

Vs.

1.State of Tamilnadu,
Rep. By The Secretary,
Home, Prohibition and Excise Dept.,
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, calling upon the production of the records relating to the detention order in Memo No.426/BCDFGISSSV/2017 dated 17.07.2017 passed by the second respondent and set aside the same and direct the respondents to produce the petitioner's daughter Jancy @ Poornima, W/o.Ramesh, aged about 28 years, now confined in Special Prison for Women, Puzhal, Chennai, before this Court and set her at liberty.

For Petitioner : Mr.L.Saravanan

For Respondents : Mr.V.M.R.Rajentran,
Addl. Public Prosecutor.

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O R D E R

(Order of the Court was made by N.SATHISH KUMAR, J)

The petitioner is the mother of the detainee, namely, Jancy @ Poornima, Wife of Ramesh, female aged about 28 years. The detainee has been detained by the second respondent by his order in No.426/BCDFGISSSV/2017 dated 17.07.2017, holding her to be an "Immoral Traffic Offender", as contemplated under 2(g) 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 when a bail application is pending at the time of passing the detention order, the detaining authority, without application of mind, has referred and relied on the similar case registered against some other accused and came to the conclusion that the detainee is likely to come out on bail and the said statement is also bereft of requisite particulars.

4. Though notice was taken as far back as on 01.08.2017, no counter-affidavit has been filed to date. 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 accusation against the detainee is for immoral trafficking. Admittedly, the bail application filed by the detainee was pending at the time of passing the detention order. Whereas, the Detaining Authority has relied upon the similar case registered against some other accused in Crime No.36/2017 and came to the conclusion that the detainee is also likely to be released or coming out on bail. The details of the similar case relied upon by the detaining authority are also not furnished. Hence, there is no material to substantiate that there is real possibility of the detainee 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.426/BCDFGISSSV/2017 dated 17.07.2017 passed by the second respondent is set aside. The detainee, namely, Jancy @ Poornima, Wife of Ramesh, female aged about 28 years, is directed to be released forthwith unless her 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 (CS II)

/true copy/

Sub Asst. Registrar

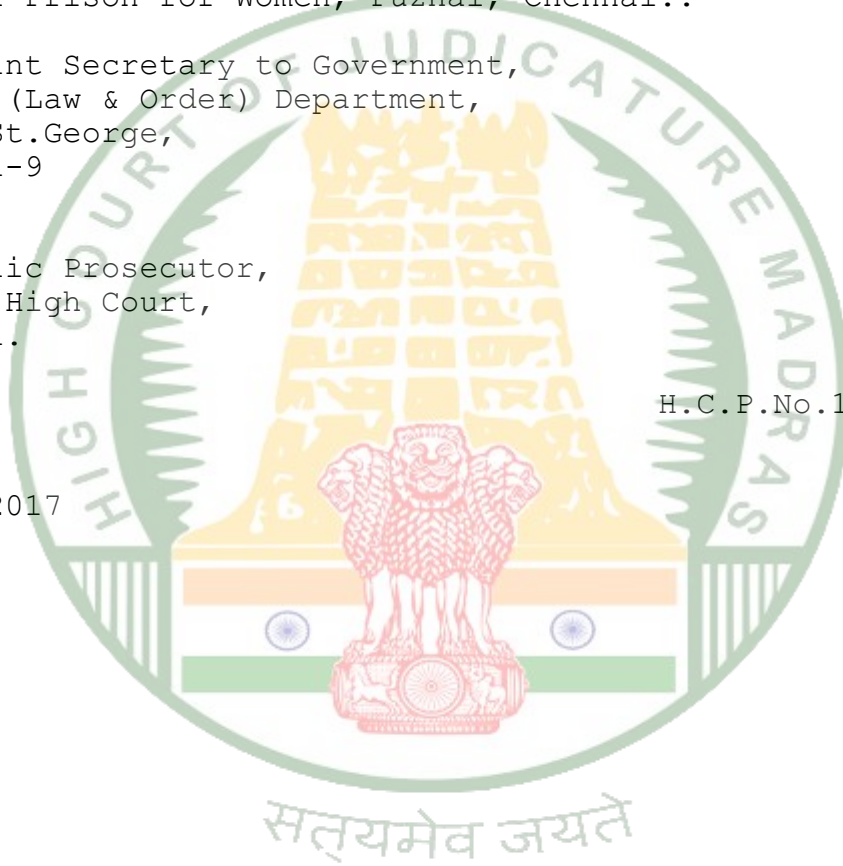
sra

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Dept.,
Fort St. George, Chennai-9.
- 2.The Commissioner of Police,
The Commissioner Office,
Vepery, Chennai 600 007.
- 3.The Superintendent,
Special Prison for Women, Puzhal, Chennai..
4. The Joint Secretary to Government,
Public (Law & Order) Department,
Fort St.George,
Chennai-9
- 5.The Public Prosecutor,
Madras High Court,
Chennai.

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RK(CO)
NR 25/10/2017



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