

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.1408 of 2017

R.Vasanthi

... 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,
Greater Chennai,
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.372/BCDFGISSSV/2017 dated 23.06.2017 passed by the second respondent and set aside the same and direct the respondents to produce the petitioner's husband Raja @ Petition Raja, S/o.Chellamy, now confined in Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.D.Gopi Krishnan
for M/s.M.Shankar

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, Raja @ Petition Raja, Son of Chellamy, male aged about 59 years. The detenu has been detained by the second respondent by his order in No.372/BCDFGISSSV/2017 dated 23.06.2017, 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 made only one submission that though the detention order proceeds to state that steps are being taken by the relatives of the petitioner to file the bail application, the said statement is bereft of requisite particulars, more particularly, when no bail application was admittedly moved by the detenu.

4. Though notice was taken as far back as on 02.08.2017, 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 Detaining Authority has passed the impugned order without application of mind. Admittedly, no bail application has been moved by the detenu in Crime No.932 of 2017 (ground case). The only reason that the detention order has been passed by the Detaining Authority is pivoted on the fact that the relatives of the detenu may file a bail application. According to us, this is not a sufficient ground for detaining the detenu. 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 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.372/BCDFGISSSV/2017 dated 23.06.2017 passed by the second respondent is set aside. The detenu, namely, Raja @ Petition Raja, Son of Chellasamy, male aged about 59 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(CS II)

//True Copy//

Sub Assistant Registrar

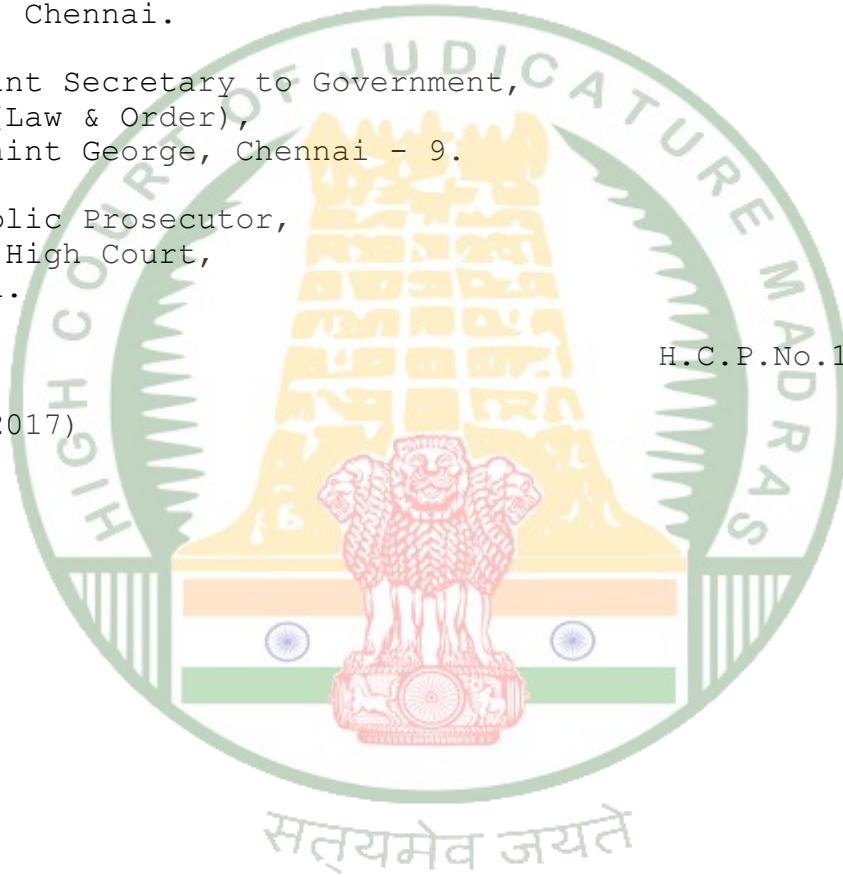
sra

To

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

SSI (CO)
CA(25/10/2017)

H.C.P.No.1408 of 2017



WEB COPY