

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.11.2017

Coram

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

H.C.P.No.1438 of 2017

B.Divya

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. By its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.

2. The Commissioner of Police,
Chennai City, Egmore,
Chennai-8.

...Respondents

* * *

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records and quash the same leading to the detention of the petitioner's husband Living World @ Bablu, son of Anandan, aged 25 years, detained under Act 14/1982 vide detention order dated 27.06.2017, on the file of the second respondent herein made Memo No.383/BCDFGISSSV/2017, and consequently direct the respondent herein to produce the body and person of the said detinue before this Court, and thereafter set him at liberty from the Central Prison, Puzhal, Chennai.

For Petitioner : Mr.M.Kaveriselvam
for M/s.M.Baskar

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

O R D E R

(Order of the Court was made by RAJIV SHAKDHER, J)

1. This is a petition, which seeks to challenge the detention order dated 27.06.2017.

2. A perusal of the impugned detention order would show that three (3) adverse cases have been noted qua the detainee. These being : Crime Nos.213 of 2016, 216 of 2016 and 1751 of 2017.

3. A perusal of the impugned order shows that in so far as the subject case is concerned, it is registered as : Crime No.1753 of 2017. In this case, the detainee has been booked under the following sections of the IPC : Sections 341, 294(b), 336, 427, 392, 397 and 506 (ii) of the IPC. The record shows that the detainee was arrested on 21.05.2017.

4. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor and examined the record as well.

5. In fact, upon perusal of the impugned order, we find that even though, the detainee had moved bail applications in Crime No.1751 of 2017 and 1753 of 2017, the same were dismissed. The detaining authority has, however, entertained an apprehension that the detainee was likely to be enlarged on bail, based on this aspect of the matter as well as on the ground that in two similar cases pertaining to 2015 bail was granted.

6. According to us, aforesaid cannot be the reason for entertaining an apprehension that there is real and imminent possibility of the detainee being released on bail.

6.1. Furthermore, it is disconcerting for us to note that even though, the detainee was arrested on 21.05.2017, the detention order was passed on 27.06.2017.

7. Therefore, for the aforementioned reasons, we are inclined to quash the impugned order. It is ordered accordingly.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention in Memo No.383/BCDFGISSSV/2017, dated 27.06.2017, passed by the second respondent is set aside. The detainee, namely, Living World @ Bablu S/o.Anandan, male, 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.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

1.The Secretary to Government,
Home, Prohibition and Excise Department
Government of Tamil Nadu
Secretariat, Fort St. George,
Chennai - 9.

2. The Commissioner of Police,
Chennai City, Egmore,
Chennai-8.

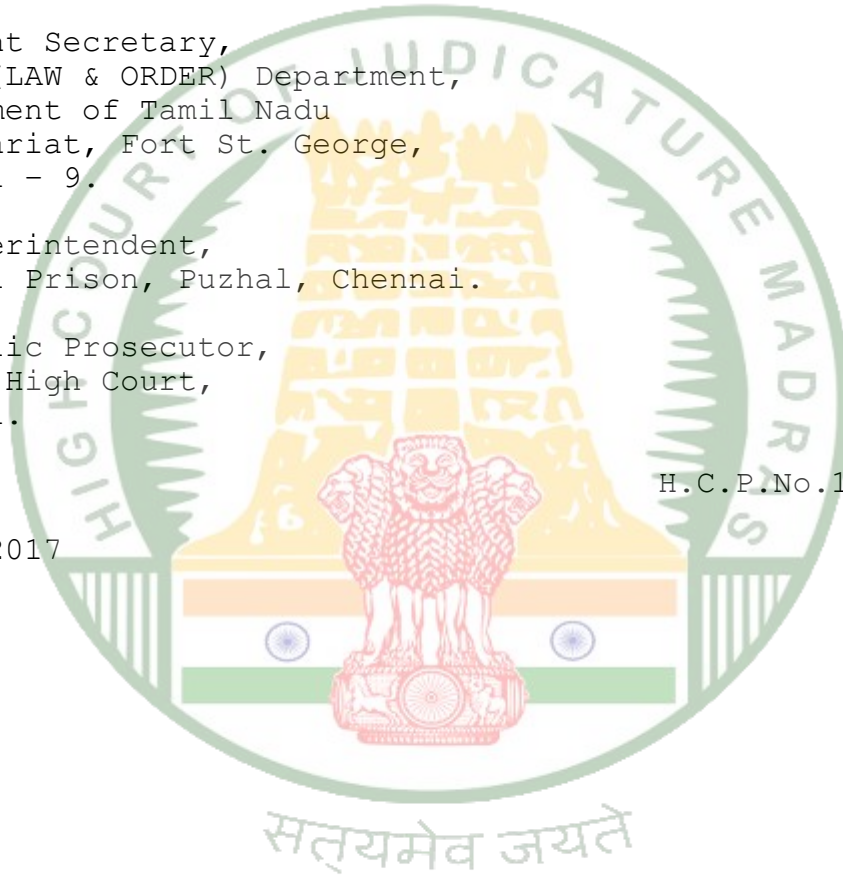
3.The Joint Secretary,
Public(LAW & ORDER) Department,
Government of Tamil Nadu
Secretariat, Fort St. George,
Chennai - 9.

4.The Superintendent,
Central Prison, Puzhal, Chennai.

5.The Public Prosecutor,
Madras High Court,
Chennai.

H.C.P.No.1438 of 2017

NR 10/11/2017



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