

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.11.2017

Coram

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

H.C.P.No.1495 of 2017

Ramesh @ Manickavasagam

... Petitioner/detenu

Vs.

1.Commissioner of Police
Greater Chennai,
Veperty, Chennai 600 007.

2.The Secretary to Government,
Home, Prohibition and Excise Department
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai - 600 009.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling the records of the first respondent herein in Memo No.334/BCDFGISSSV/2017 dated 12.06.2017, setting aside the order of detention passed therein and produce the petitioner Ramesh @ Manickavasagam, S/o.Jackson, aged 22 years who has now detained in Central Prison, Puzhal at Chennai and set him at liberty.

For Petitioner : Mr.R.Rajasekaran

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 seeks to assail the detention order dated 12.06.2017.

2. Qua the detenu, two (2) adverse cases have been noticed in the impugned order. These cases are numbered as : Crime Nos.2333/2015 and Crime No.655/2016. Insofar as Crime No.2333 of 2015 is concerned, the detenu has been booked under Sections 341, 294(b), 307, 506(ii) r/w 34 of the IPC. Insofar as Crime No.655 of 2016 is concerned, the detenu has been booked under

Sections 341, 294(b), 324, 336, 427, 307, 506(ii) r/w 149 of the IPC.

3. Likewise, in so far as the subject case is concerned, the same is registered as Crime No.964 of 2017. The detenu, as regards this case, has been booked under Sections 341, 294(b), 427, 397 and 506(ii) of the IPC.

3.1. The record shows that the detenu was arrested on 06.05.2017.

4. Counsel for the petitioner says that the order is unsustainable on account of delay and given the fact that there was no likelihood of the detenu being released on bail in the immediate future.

5. On the other hand, the learned Additional Public Prosecutor relies upon the detention order to resist the petition.

6. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor and also perused the records. According to us, the impugned order cannot be sustained for the following reasons:

(i) First, the detenu was, concededly, arrested on 06.05.2017, whereas, the impugned order has been passed on 12.06.2017. There is a delay of over one (1) month in passing the impugned order. Notice in this petition was issued on 16.08.2017, despite which, no counter affidavit has been filed by the State. Consequently, the delay remains unexplained.

(ii) Second, the detenu, admittedly, moved for bail in Crime No.964 of 2017, which even according to the Detaining Authority was pending on the date, when the impugned order was passed. The Detaining Authority appears to have entertained the apprehension that the detenu may get enlarged on bail, only on account of the fact that an order was passed qua another case in Crime No.1783 of 2015. Pertinently, the date of the order is not mentioned. In our view, this fact could not have led to the conclusion that there was a real and imminent possibility of the detenu being enlarged on bail.

7. Thus, for the foregoing reasons, we are of the view, as indicated above, that the impugned order cannot be sustained. Accordingly, the impugned order is quashed.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.334/BCDFGISSSV/2017, dated 12.06.2017, passed by the first respondent is set aside. The detenu, namely, Ramesh @ Manickavasagam, S/o.Jackson, male, aged about 22 years, is directed to be released forthwith unless his detention is required in connection with another 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 V)

/true copy/

Sub Asst. Registrar

To

- 1.Commissioner of Police
Greater Chennai,
Vepery, Chennai 600 007.
- 2.The Secretary to Government,
Home, Prohibition and Excise Department
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai - 600 009.
- 3.The Joint Secretary
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
- 4.The Superintendent,
Central Prison,
Puzhal, Chennai.
[In duplicate for communication to the detenu]
- 5.The Public Prosecutor,
Madras High Court,
Chennai.

सत्यमेव जयते

H.C.P.No.1495 of 2017

NR 28/11/2017

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