

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.10.2017

Coram

THE HON'BLE MR.JUSTICE RAJIV SHAKDER
&
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR
H.C.P.No.1528 of 2017

Mrs. Shanthi

... Petitioner

Vs.

1. State of Puducherry
represented by the Secretary to Government,
Home, Prohibition and Excise Department,
Puducherry.
2. The District Collector and
District Magistrate,
Puducherry District,
Puducherry.
3. The Secretary to Government
Government of India
Ministry of Home Affairs
(Department of Internal Security)
North Block,
New Delhi 110001. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records relating to the Detention Order passed by the second respondent pertaining to the order made in No.08/DM/RO/D2/PPASAA/2017 dated 29.08.2017 in detaining the detenu under Section 2(c) of the Puducherry Prevention of Antisocial Activities Act,

2008 (Act No.10 of 2010) as a “Dangerous Person” and quash the same and direct the respondents to produce the detenu Sundar @ Sakthivel @ Maduvupet sundar son of Muthukrishnan aged 30 years, who is detained at Central Prison, Kalapet, Puducherry, before this Court and set him at liberty.

For Petitioner : M/s.D. Prasanna

For Respondents : Mr.V.Balamuruganee,
for Addl. Public Prosecutor (Puducherry
[for R1 and R2]

Mr.S. Arockiam
Central Government Standing Counsel
[For R3]

ORDER

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

The prayer made in the petition is to call for records relating to the Detention Order in No.08/DM/RO/D2/PPASAA/2017 dated 29.06.2017, passed by the second respondent under Section 2(c) of the Prevention of Antisocial Activities Act, 2008 (Act No.10 of 2010). The detenu is, one, Mr. Sundar @ Sakthivel @ Maduvupet Sundar, son of one Mr.Muthukrishnan. The petitioner before us is the mother of the detenu/ Mr. Sundar @ Sakthivel @ Maduvupet Sundar.

2. In this petition, the detention order dated 29.06.2017 is challenged.

The adverse cases noticed by the detaining authority are 10 in number. Out of

which, reportedly in seven (7) cases the detenu has been acquitted. There are three (3) cases which are pending, out of which, one has been charge sheeted; other is pending trial and, the third case, is under investigation.

3. In para 4 of the Detention Order, it is noted that the detaining authority examined the submissions of the Superintendent of Police (North), that the detenu was indulging in extortion of money from the business persons and from wealthy persons by putting them under fear of death and that after perusing the record found no evidence substantiate the charge.

4. Furthermore, the Detaining Authority has also observed that the bail application filed by the detenu in Cr.No.70 of 2017 is pending and therefore, the detenu is likely to be enlarged on bail.

5. We also note that the detenu was arrested on 17.2.2017, whereas the detention order has been passed on 29.06.2017. In this case notice was issued on 21.8.2017. Since then, no counter affidavit was filed. There is thus on record no explanation, qua the delay in passing the detention order.

6. According pendency of bail application cannot form the basis for passing the detention order. This apart there is no valid explanation for not passing the detention for more than four (4) months. Given the aforesaid

circumstances, we are inclined to quash the detention order.

7. In the result, the Habeas Corpus Petition is allowed. The Order of detention in No.08/DM/RO/D2/PPASAA/2017 dated 29.08.2017 , passed by the second respondent is set aside. The detenu, namely, Mr. Sundar @ Sakthivel @ Maduvupet Sundar, son of one Mr.Muthukrishnan aged about 30 years, is directed to be released forthwith unless her custody is required in connection with another case.

8. Consequently, this order will be communicated to the concerned Jail Superintendent by the Registrar General of this Court via Fax.

(R.S.A., J.)

(N.S.K., J.)

13.10.2017

Index : yes/no

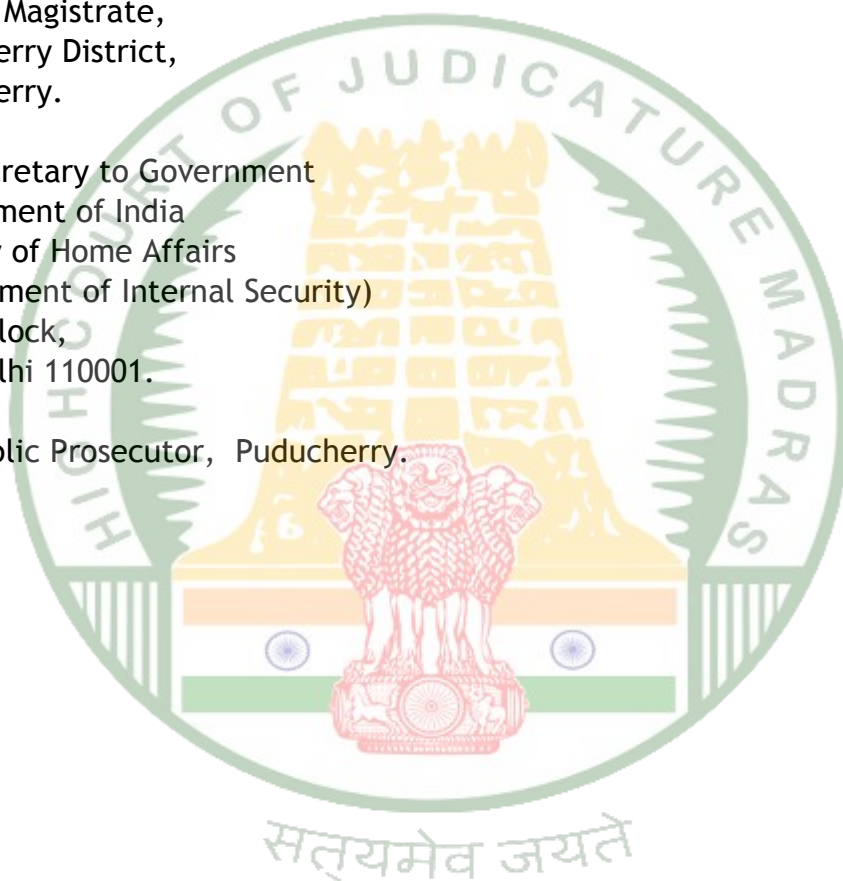
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Note:

1. Issue copy by today itself
2. Order will be communicated to Jail Superintendent, Central Prison, Kalapet, Puducherry, by the Registrar General of this Court via Fax.

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Puducherry.
2. The District Collector and
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Puducherry District,
Puducherry.
3. The Secretary to Government
Government of India
Ministry of Home Affairs
(Department of Internal Security)
North Block,
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4. The Public Prosecutor, Puducherry.



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RAJIV SHAKDER, J.

and

N.SATHISH KUMAR, J.

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