

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.1598 of 2017

Palaniammal

... Petitioner

Vs.

1. The Secretary to Government,
Government of India,
Ministry of Home Affairs,
Department of Internal Security,
North Block, New Delhi-100 001.
2. The Secretary to Government,
Rajnivas, Puducherry.
3. The District Magistrate,
I Floor, Revenue Complex,
Saram, Puducherry-605 013.

.... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records relating to the detention order in No.15/DM/RO/D2/PPASAA/2017, dated 10.08.2017, passed by the third respondent under the Puducherry Prevention of Anti-Social Activities Act, 2008 (Act 10 of 2010) and set aside the same and direct the respondent to produce the petitioner's son Karthi @ Karthikeyan, S/o.Sundaramoorthi, aged about 20 years, the detainee, now confined in Central Prison, Kalapet, Puducherry, before this Court and set the petitioner's son Karthi @ Karthikeyan, S/o.Sundaramoorthi, aged about 20 years the detainee herein at liberty.

For Petitioner : Mr.D.Gopikrishnan

For Respondents : Mr.V.Balamurugane,
Additional Public Prosecutor
(Puducherry)

For Respondents : Mr.S.Arockiam
2 & 3 for Mr.M.R.Thangavel

O R D E R

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

1. This is a petition, which seeks to assail the detention order dated 10.08.2017.

2. Notice in this petition was issued on 30.08.2017, despite which, no counter affidavit has been filed to date. Therefore, the assertions made in the petition have remain untraversed.

3. A perusal of the impugned detention order would show that three are (3) adverse cases noted qua the detenu; these being : Crime Nos.45 of 2016, 402 of 2016 and 25 of 2016. The record also shows that in the subject case, which is registered as : Crime No.40 of 2017, the detenu has been booked under the following sections : Sections 148, 302 read with 149 and 109 of the IPC and Section 3 of Explosive Substances Act, 1908.

3.1. Out of the three (3) adverse cases, one stands dismissed, while the other two (2) are pending trial.

3.2. In so far as the subject case is concerned, the detenu was arrested, on 27.04.2017.

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

5. A perusal of the impugned detention order shows that the detaining authority has expressed an apprehension that the detenu will be enlarged on bail, since the statutory period for filing the charge sheet, expired on 25.07.2017.

5.1. Clearly, the State was remiss in not filing the charge sheet within the statutory period, and therefore, resorted to extraordinary powers conferred upon it under the provisions of the Puducherry Prevention of Anti-Social Activities Act, 2008 (Act 10 of 2010). Consequently, the impugned order came to be passed after a delay of nearly four (4) months, i.e., on 10.08.2017.

6. Having regard to this position, on this ground alone, we are inclined to quash the impugned order. It is directed accordingly.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.15/DM/RO/D2/PPASAA/2017, dated 10.08.2017, passed by the third respondent is set aside. The detenu, namely, Karthi @ Karthikeyan, S/o.Sundaramoorthi, male, aged about 20 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 III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Government of India,
Ministry of Home Affairs,
Department of Internal Security,
North Block, New Delhi-100 001.
2. The Secretary to Government,
Rajnivas, Puducherry.
3. The District Magistrate,
I Floor, Revenue Complex,
Saram, Puducherry-605 013.
4. The Superintendent,
Central Prison, Kalapet, Puducherry.
5. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
6. The Public Prosecutor (Puducherry),
Madras High Court.

+1cc to Mr.U.Yuvaraj, Advocate, S.R.No.79958
+1cc to Mr.S.Arockiam, Advocate, S.R.No.79753

H.C.P.No.1598 of 2017

CP(CO)
CA(14/11/2017)