

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.11.2017

Coram

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

H.C.P.No.1800 of 2017

Mrs.I.Dhilsath

... Petitioner

Vs.

1.The Principal Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai - 9.

2.The District Magistrate and District Collector,
Namakkal District.

3.The State Rep. by
Inspector of Police
Eruppampatty Police Station
Coimbatore District.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records vide order C.M.P.No.06/Goonda/2017/M1 dated 12.06.2017 on the file of the 2nd respondent and set aside the same and to produce my friend Mani @ Pannapatty Manikandan now confined at Central Prison Coimbatore and set him liberty forthwith.

For Petitioner : Mr.M.Aswin

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

O R D E R

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

1. This is a petition assails the detention order dated 12.06.2017.

2. Notice in this petition was issued on 22.09.2017. Despite opportunities, being given to the State, no counter affidavit has been filed to date. Therefore, the assertions made in the petition have remained uncontroverted.

3. Qua the detenu, in the impugned order, four (4) adverse cases have been noted. These being : Crime Nos.32/2013, 301/2016, 28/2017 and 87/2017.

4. Insofar as the subject case is concerned, it is registered as : Crime No.150 of 2017. The record shows that the detenu was arrested on 26.04.2017.

5. A perusal of paragraph No.4 of the impugned order also reveals that the detenu, admittedly, on the date, when the impugned order was passed, had not filed a bail application. The Detaining Authority, however, notes in the impugned order that the detenu's relatives would take steps for enlargement of the detenu on bail, by moving an application in that behalf.

5.1. Furthermore, the Detaining Authority also notes in the impugned order, that in a similar case, bail was granted to the accused, vide order dated 25.05.2016.

6. We have heard the learned counsel for the parties and perused the record. According to us, the impugned order cannot be sustained. First and foremost, for the reason that though the detenu was arrested on 26.04.2017, the impugned order was passed nearly two (2) months later i.e., on 12.06.2017. There has been, according to us, a considerable delay in passing the impugned order. Second, that while it is noted by the Detaining Authority that the detenu had not moved for bail, an apprehension is expressed by the Detaining Authority that the detenu may be enlarged on bail, as his relatives may file such an application. According to us, this ground is completely untenable and cannot be used to support the order of detention. Third and last, the apprehension expressed by the Detaining Authority that the detenu may be released on bail, since, in a similar case, bail was granted as far back as on 25.05.2016, according to us, is, again, not a good enough reason to detain the detenu. There is, in our view, no real and imminent possibility of the detenu being enlarged on bail.

7. For all these 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 C.M.P.No.06/Goonda/2017/M1 dated 12.06.2017, passed by the second respondent is set aside. The detenu, namely, Mani @ Pannapatty Manikandan, S/o.Kumar, male, aged about 31 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

To

- 1.The Principal Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai - 9.
- 2.The District Magistrate and District Collector,
Namakkal District.
- 3.The Inspector of Police
Eruppampatty Police Station
Coimbatore District.
- 4.The Superintendent,
Central Prison
Coimbatore.
- 5.The Public Prosecutor,
Madras High Court,
Chennai.
- 6.The Principal Secretary to Govt
Public Law and order Department
Fort St.George Secretariat, Chennai-9

+1 cc to M/s.M.Aswin Advocate sr 78572

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