

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. No.1839 of 2017

Kanaga

... Petitioner

-vs-

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai 600009.

2.The District Collector &
District Magistrate,
Vellore District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records in connection with the order of Detention passed by the second respondent dated 20.09.2017 in C3.D.O.No.98/2017 against the petitioner son Sumaithangi Saravanan @ Saravanan, male, aged 32 years S/o Venkatesan, who is confined at Central Prison, Vellore, and set aside the same and direct the respondents to produce the detneue before this Court and set him at liberty.

For Petitioner : Mr. S. Senthilvel

For Respondents : Mr. V.M.R. Rajentran
Additional Public Prosecutor

O R D E R

[Order of the Court was made by RAJIV SHAKDHER, J.]

1. This is the petition assailing the Detention Order dated 20th September 2017. The petitioner is the mother of the detneue. The detneue was admittedly detained on 23.08.2017. In the subject case, which is numbered as Cr.No.309 of 2017, the detneue is said to have committed the offences under Section 341, 294(b), 392, 397, 506(ii) of I.P.C.

2. Six (6) adverse cases are noted in the impugned order. To be noted, apart from anything else, there is considerable period

of delay in passing the impugned order, as indicated above. The Detention Order was passed on 20th September 2017 whereas, the detainee was detained on 23rd August 2017. Notice in the petition was issued on 06.10.2017. Despite notice, no counter affidavit has been filed.

3. The detaining authority apprehends that the detainee is likely to be released on bail. This apprehension is expressed as in similar case, bail was granted on 18.05.2017, albeit, at least three(3) months prior to the date on which the detainee was arrested.

3.1. Furthermore, it is not indicated in the impugned order that insofar as six (6) adverse cases are concerned, whether the detainee had approached the concerned court for being enlarged on bail.

4. As indicated above, the fact that there has been a delay in passing the detention order impregnates the impugned order with illegality.

5. For all these reasons, we are inclined to quash the impugned order. It is ordered accordingly.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in C3.D.O.No.98/2017 dated 20.09.2017, passed by the 2nd respondent is set aside. The detainee, namely, Thiru. Sumaithangi Saravanan @ Saravanan, male, aged about 32 years, son of Tr. Venkatesan, 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/-

सत्यमेव जयते
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ggs

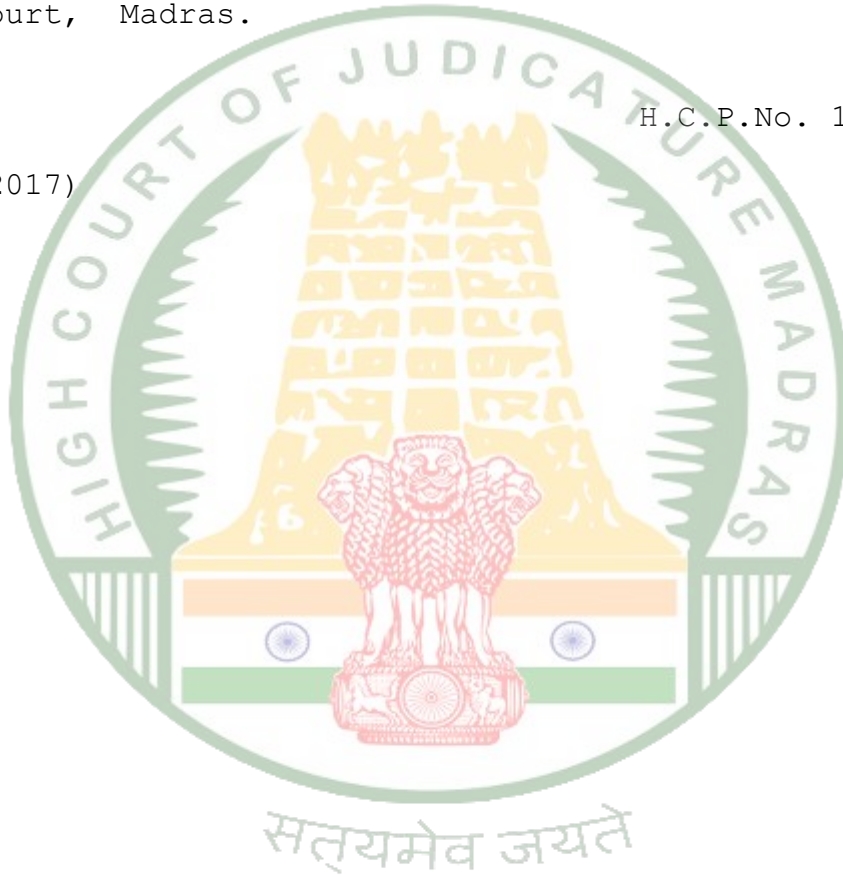
To:

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai 600009.

2. The Joint Secretary to Government,
Public, Law and Order Department
Secretariat, Chennai 600009.
3. The District Collector &
District Magistrate, Vellore District.
4. The Superintendent, Central Prison,
Vellore.
5. The Public Prosecutor,
High Court, Madras.

H.C.P.No. 1839 of 2017

VR(01/11/2017)



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