

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.11.2017

Coram

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

H.C.P.No.1863 of 2017

S.Srikanth

... Petitioner

Vs.

1.State of Tamil Nadu

Rep by the Secretary to Government,
Department of Home Prohibition and Excise
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Commissioner of Police

Office of the Commissioner of Police
Chennai.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records, pertaining to the order of detention passed by the second respondent in No.344/BCDFGISSSV/2017 dated 13.06.2017 and set aside the same setting aside the impugned order of detention passed No.344/BCDFGISSSV/2017 dated 13.06.2017 under the Tamil Nadu Act 14 of 1982 and direct the respondents to produce the body of the detenu namely Srikanth, M/A.26, S/o.Soundharajan, Indian, No.13/1, Srinivasapuram, Patinapakkam, Chennai - 600 028, now confined in Puzhal, Central Prison, before this Court and set him at liberty.

For Petitioner : Mr.H.Maruthiraj

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 seeks to challenge the detention order dated 13.06.2017. In the detention order, three (3) adverse cases (Crime No.1444/2017, Crime No.1445/2017 and Crime No.460/2017) have been noted qua the detenu. Insofar as the

subject case is concerned (Crime No.461 of 2017), the detenu has been booked under Sections 341, 294(b), 336, 427, 397 and 506 (ii) IPC.

2. Notice in this petition was issued on 11.10.2017. 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. A perusal of the detention order would show that one of the reasons, which has propelled the Detaining Authority in passing the impugned order, is that there is a likelihood of the detenu being enlarged on bail.

4. Having perused the detention order and records, we find that the Detaining Authority itself notes that the bail application moved in the subject case (Crime No.461 of 2017) is pending. The only reason, for coming to the conclusion that the detenu may be released on bail, as indicated in the impugned order, is that the relatives of the detenu are taking steps to file a bail application. According to us, this cannot be the reason to detain the detenu.

4.1. Furthermore, it is noted by the Detaining Authority that in a similar case (Crime No.1709 of 2015), bail was granted by the learned Principal Sessions Judge, Chennai in CrI.M.P.No.15367 of 2015. According to us, even this cannot furnish a reason for detaining the detenu.

4.2. Besides, what is indicated, we note that the detenu was arrested on 16.05.2017, whereas, the impugned order was passed nearly a month later i.e., 13.06.2017. There has been undue delay in passing the impugned order. This is another reason, we are of the view of that, the impugned order cannot be sustained. It is ordered accordingly.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.344/BCDFGISSSV/2017 dated 13.06.2017, passed by the second respondent is set aside. The detenu, namely, Srikanth, S/o.Soundharajan, male, aged about 26 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/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

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

2.The Commissioner of Police
Office of the Commissioner of Police
Chennai.

3.The Superintendent,
Central Prison,
Puzhal, Chennai.

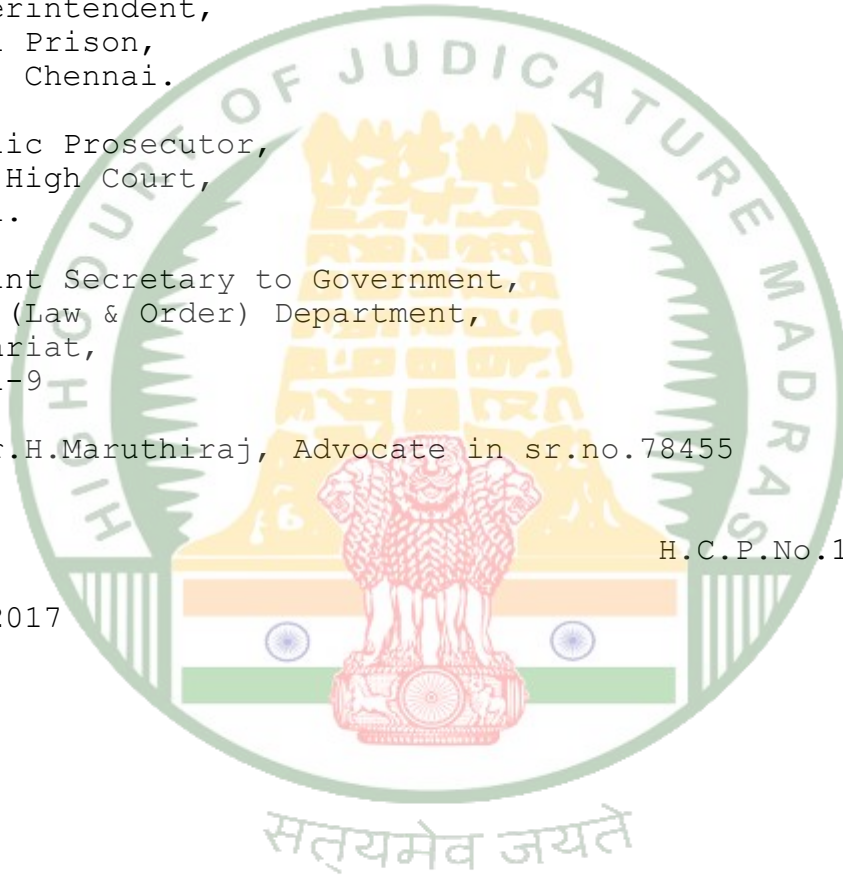
4.The Public Prosecutor,
Madras High Court,
Chennai.

5. The Joint Secretary to Government,
Public (Law & Order) Department,
Secretariat,
Chennai-9

+1cc to Mr.H.Maruthiraj, Advocate in sr.no.78455

H.C.P.No.1863 of 2017

NR 07/11/2017



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