

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.1876 of 2017

G.Ravi Anand

... Petitioner

Vs.

1.The District Collector and
District Magistrate
Kancheepuram District
Kancheepuram.

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

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the entire records in connection with the detention order of the 1st respondent herein, in detention order BCDFGISSSV No.74/2017 dated 12.08.2017 and quash the same and direct the respondents to produce the body of the detenu, Gilbert Raj @ Charles Gilbert Raj, aged about 25 years, S/o.Ravi Anand detained in Central Prison - II, Puzhal, Chennai under Act 14/1982 before this Court and set him at liberty forthwith.

For Petitioner : Mr.M.Nirmal Kumar

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

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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 12.08.2017. In the detention order, two (2) adverse cases have been noted qua the detenu being : Crime Nos.475 and 476 of 2017.

2. Insofar as the subject case is concerned (Crime No.477 of 2017), the detenu has been booked under Sections 294(b), 323, 384, 506(ii) and 307 IPC.

3. 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 remain un-controverted.

4. Counsel for the petitioner submits that there are several fatal inconsistencies, which emerge upon perusal of the record, giving a clear impression that the impugned order has been with due application of mind.

4.1. In this behalf, our attention has been drawn to the record.

4.2. From the record filed, it is sought to be demonstrated that, while it is the State's case that the detenu was arrested vis-a-vis all three (3) cases, which include the adverse cases as well as the subject case on 15.07.2017, different times for arrest have been shown. In this behalf our attention has been drawn to the arrest card generated for three cases as also the remand report.

4.3. Counsel for the petitioner says that while, initially, time of arrest was given as 700 hrs, it has been changed by hand to 7.00 p.m. in the arrest cards placed on record.

4.4. We are also shown the remand report, which shows that the detenu was arrested at 14.00 hrs, i.e., at 2.00 p.m. Furthermore, our attention is drawn to the seizure report, generated at the time of search, which would show that the detenu was arrested on 15.07.2017 at 23.30 hrs.

5. This apart, learned counsel says that even according to the Detaining Authority, the bail petitions filed are pending. It is submitted that the Detaining Authority has come to the conclusion that there is a likelihood of the detenu being released on bail, only on the ground that in a similar case, the accused was granted bail on 27.02.2015 (Crl.M.P.No.508 of 2015). It is contended that, therefore, the conclusion reached that the detenu would be released on bail, is flawed.

6. On the other hand, the learned Additional Public Prosecutor relies upon the detention order to resist the petition.

7. We have heard the learned counsel for the parties and perused the records. According to us, the contention advanced

by the counsel for the petitioner that there is inconsistency in the record with regard to the date of arrest is borne out from the documents referred to above. While the arrest card generated for the three cases, shows that the detenu was arrested on 15.07.2017 at 700 hrs, by hand the time of arrest has been corrected and shown as 7.00 p.m.

7.1. In contradistinction to this the remand report shows that the detenu was arrested on 15.07.2017, albeit, at 2.00 p.m.

7.2. The seizure report, however, is indicative of the fact that the detenu was arrested a day earlier i.e., on 14.07.2017. These inconsistency which are apparent on the fact of the record, makes us to come to the conclusion that there is little or no application of mind by the Detaining Authority.

8. Furthermore, the fact that bail petitions filed by the detenu are pending is clearly set forth by the Detaining Authority in the impugned order. Therefore, the conclusion reached by the Detaining Authority that the detenu is likely to be released on bail, merely because, in a similar case an order has been passed, that too, nearly five (5) months prior to the date, when the detenu was arrested, according to us, is flawed.

9. Thus, for the foregoing reasons, we are inclined to quash the impugned order. It is ordered accordingly.

10. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.74/BCDFGISSSV/2017 dated 12.08.2017, passed by the first respondent is set aside. The detenu, namely, Gilbert Raj @ Charles Gilbert Raj, S/o.Ravi Anand, male, aged about 25 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

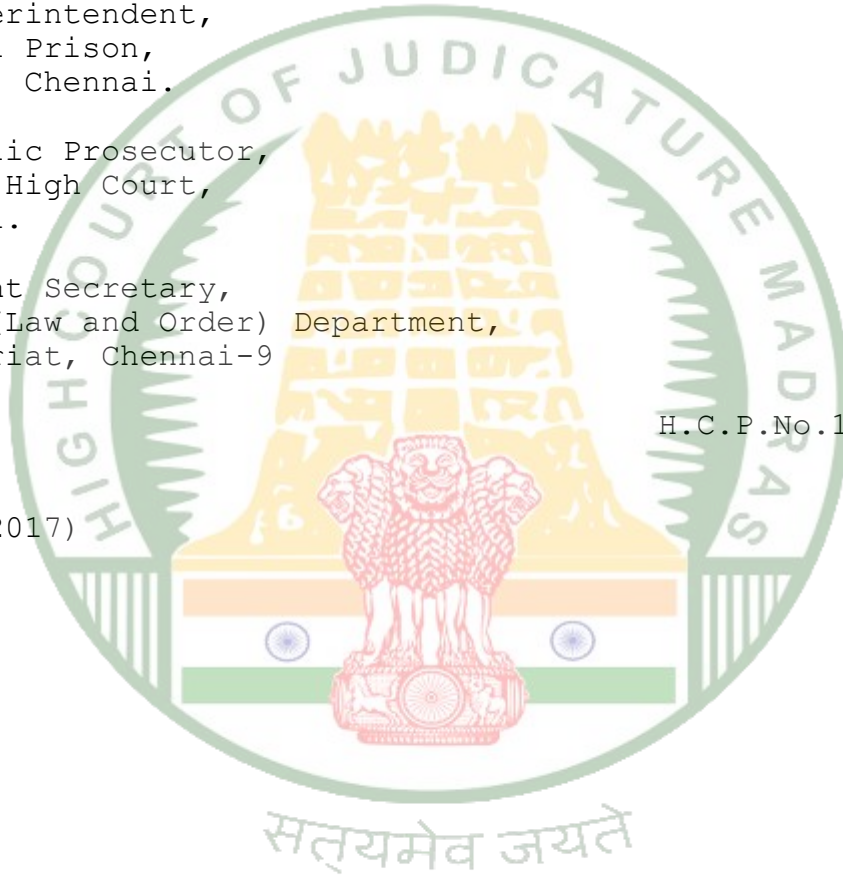
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To

- 1.The District Collector and
District Magistrate
Kancheepuram District
Kancheepuram.
- 2.The Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai - 9.
- 3.The Superintendent,
Central Prison,
Puzhal, Chennai.
- 4.The Public Prosecutor,
Madras High Court,
Chennai.
- 5.The Joint Secretary,
Public (Law and Order) Department,
Secretariat, Chennai-9

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GN(07/11/2017)



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