

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

And

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.No.1982 of 2017

Latha

... Petitioner

-vs-

1.The State of Tamilnadu,
Rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 9.

2.The Commissioner of Police,
Chennai Police,
Vepery, Chennai - 7.

... 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 leading to the detention of the Petitioner's son Vinoth @ Arch Vinoth son of Venkatesan Male Aged 28 years has been detained under Act 14/82 as a "Goonda" vide detention order dated 21.09.17 on the file of the 2nd respondent herein, made in BCDFGISSSV No./ 582 /2017 and quash the same and consequently direct the respondents herein to produce the body and person of the said detenu before this Hon'ble Court and thereafter set him at liberty from the Central Prison, Puzhal, Chennai.

For Petitioner : Mr.T.I.Ramanathan

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 petition seeks to challenge the detention order, dated 21.09.2017.

2.A perusal of the detention order would show, that two

adverse cases are noted, qua, the detenu. These being: Crime No.903 of 2017 and Crime No.563 of 2017. This apart, in so far as the subject case is concerned, the same is registered as Crime No.570 of 2017.

2.1.The record further shows, that the detenu, surrendered before the Judicial Magistrate, in Crime No.563 of 2017, on 22.06.2017.

2.2.The record also shows, that in so far as the subject case is concerned, i.e., Crime No.570 of 2017, the alleged incident, qua which, the detenu has been booked, under Sections 147, 148, 341, 294(b), 323, 336, 427, 397 and 506(ii) of the I.P.C., occurred, according to the detaining authority, prior to the date on which, the detenu is said to have surrendered, i.e. on 21.06.2017.

3.Furthermore, a perusal of paragraph no.4 of the impugned order shows, that the detenu, had moved bail application in Crime No.570 of 2017, which was dismissed on 14.09.2017. In so far as the Crime No.563 of 2017 is concerned, even according to the detaining authority, no application had been moved, on the date of passing of the impugned order.

3.1.The detaining authority, however, appears to have entertained the apprehension, that the detenu, was likely to be released on bail, based on the information received by it, that the relatives of the detenu, are intending to move bail applications, in Crime No.563 of 2017 and Crime No.570 of 2017. This apprehension, it appears, got strengthened, due to bail having been granted in two similar cases, albeit, in 2015.

4.We have heard the learned counsel for the petitioner as well as Mr.V.M.R.Rajentran, learned Additional Public Prosecutor. We have also perused the records.

5.According to us, the impugned order, cannot be sustained, for the following reasons:

(i)First, even though the detenu surrendered on 22.06.2017, the impugned detention order was passed only on 21.09.2017. Notice in this petition was issued on 26.10.2017, despite which, to date, the State has not filed a counter affidavit in the matter. Resultantly, the delay, in passing the detention order, remains unexplained.

(ii) Second, even according to the detaining authority, bail application filed by the detenu in Crime No.570 of 2017, stood rejected, on 14.09.2017. Furthermore, as indicated above, the detaining authority noted that no bail application was moved, by the detenu, in Crime No.563 of 2017. The conclusion reached by the detaining authority, that because the detenu's relatives were intending to move bail applications to Crime No.563 of 2017 and Crime No.570 of 2017, that there was a possibility of the

detenu, will be enlarged on bail, is, according to us, erroneous. The other reason, given for entertaining this apprehension, which is, that, bail was granted in similar cases, that too, in 2015, is also, in our view, an untenable reason to arrive at the conclusion, that the detenu was likely to be released on bail.

6.Thus for the foregoing reasons, as indicated above, 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.582/BCDFGISSSV/2017, dated 21.09.2017, passed by the second respondent is set aside. The detenu, namely, Vinoth, alias, Arch Vinoth, son of Venkatesan, aged about 28 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(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 9.
- 2.The Commissioner of Police,
Chennai Police,
Vepery, Chennai - 7.
- 3.The Superintendent,
Central Prison, Puzhal, Chennai.
- 4.The Joint Secretary of Government
Public (Law & Order)
Fort St.George,
chennai.

5. The Additional Public Prosecutor,
Madras High Court,
Madras.

H.C.P.No.1982 of 2017

SK(CO)

RRK(19/12/2017)



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