

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.12.2017

Coram

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

H.C.P.No.2040 of 2017

Mrs.R.Ponni

... Petitioner

Vs.

1.The State Rep. by its
Secretary, Government of Tamil Nadu,
Home, Prohibition & Excise Department,
Fort St. George,
Chennai - 600 009.

2.The Commissioner of Police
Chennai City, Veppery,
Chennai - 600 007.

3.The State rep. by its
Inspector of Police
T-2, Ambattur Estate Police Station
Chennai.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, call for the records of the second respondent in BCDFGISSSV No.572 of 2017 dated 19.09.2017 and quash the same and thereby direct the respondents to produce the son of the petitioner namely Thiru.Praveen Kumar, S/o.Ramesh, Male, aged about 21 years (detenu) now detained at Central Prison, Puzhal, Chennai before this Court and set him at liberty forthwith in the interest of justice.

For Petitioner : Ms.A.Yamuna
For Respondents : Mr.V.M.R.Rajentran,
Addl. Public Prosecutor.

O R D E R

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

1. This is a petition filed to assail the detention order dated 19.09.2017.

2. A perusal of the detention order would show that there are four (4) adverse cases noted qua the detenu. These being : Crime No.1199 of 2017; Crime No.1713 of 2017; Crime No.1281 of 2017; and Crime No.1465 of 2017.

3. Insofar as the subject case is concerned, it is registered as Crime No.1475 of 2017.

4. The record shows that the detenu was arrested on 17.08.2017.

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

(i) First, though the detenu was arrested on 17.08.2017, the impugned detention order was passed on 19.09.2017. Notice in this petition was issued, by us, on 02.11.2017, despite which, no counter affidavit has been filed by the State. The delay in passing the impugned detention order, thus, remains unexplained.

(ii) Second, even according to the Detaining Authority, the bail petition filed by the detenu, in Crime No.1475 of 2017, was pending, on the date when the impugned order was passed. Furthermore, a perusal of the impugned order shows that the detenu had not moved any bail application in Crime No.1199 of 2017 and Crime No.1465 of 2017.

(ii)(a) The Detaining Authority, however, reached a conclusion that the detenu could be released on bail on two grounds: First, that the relatives of the detenu were intending to move bail applications in Crime No.1199 of 2017 and Crime No.1465 of 2017. Second, that in a similar case, bail was granted, albeit, in 2016. Pertinently, the date of the order is not mentioned in the impugned order.

(ii)(b) According to us, the conclusion reached by the Detaining Authority that there was a likelihood of the detenu being released on bail is flawed. Even according to the Detaining Authority, the bail petition filed in Crime No.1475 of 2017 was pending, on the date when the impugned order was passed. Likewise, as noted by the Detaining Authority, no bail petitions had been filed in Crime No.1199 of 2017 and Crime No.1465 of 2017. The fact that the relatives of the detenu were

intending to move for bail in these cases and that in a similar case, bail had been granted, according to us is an approach, which is erroneous.

6. For the foregoing reasons, we are of the view, as indicated above, that the impugned order deserves to be quashed. It is directed accordingly.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.572 of 2017 dated 19.09.2017, passed by the second respondent is set aside. The detenu, namely, Praveen Kumar, S/o.Ramesh, male, aged about 21 years, is directed to be released forthwith unless his detention is required in connection with another 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-IX)

//True Copy//

Sub Assistant Registrar

vsm

To

- 1.The Secretary to the Government,,
Home, Prohibition & Excise Department,
Fort St. George,
Chennai - 600 009.
- 2.The Commissioner of Police
Chennai City, Veppery,
Chennai - 600 007.
- 3.The Inspector of Police
T-2, Ambattur Estate Police Station
Chennai.
- 4.The Joint Secretary
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
- 5.The Superintendent,
Central Prison,
Puzhal, Chennai.
[In duplicate for communication to the detenu]

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

H.C.P.No.2040 of 2017

KK(CO)
TR(14/12/2017)



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