

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.No.2053 of 2017

Selvi

... Petitioner

-vs-

1.State represented by
The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

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

3. The Inspector of police,
Rathinagiri Police Station,
vellore District

.... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records in memo No.C3/D.O.No.87/2017 dated 22.08.2017 passed by the 2nd respondent and quash same as illegal and consequently direct the respondents to produce the Ravindran @ Suban @ Ravichandran son of Sekar, aged about 30 years, who is now confined at Central Prison, Vellore before this Court and set him at liberty.

For Petitioner : Mr. Gopikrishna
for Mr.J. Milton Arul Rajendran

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. The petition is directed against the detention order dated 22.08.2017. A perusal of the detention order would show that, there are six (6) adverse cases noticed qua the detainee/Thiru Ravindran @ Suban @ Ravichandran, son of Sekar, Male, aged 30 years. In respect of all the six adverse cases the detainee/Thiru. Ravindran @ Suban @Ravichandran has been booked under various provisions of the Tamilnadu Prohibition Act, 1937.

2. Insofar as the subject case is concerned, which is registered as Crime No.158 of 2017, the detainee/Thiru. Ravindran @ Suban @ Ravichandran has been booked under sections 4(1)(i), 4(1)(aaa) and 4(1-A)(ii) of Tamilnadu Prohibition Act, 1937, read with Section 328 of the IPC. The record shows that the detainee/Thiru. Ravindran @ Suban @Ravichandran was arrested on 17.07.2017, in six (6) adverse cases, as well as the subject case, to which we have made reference above.

3. The learned counsel for the petitioner says that the impugned order cannot be sustained for various reasons, which includes the delay in passing the impugned order; the contraband seized not being deposited with the Court in time; and the fact that the bail application filed was pending for adjudication, on the date when the impugned order has been passed.

4. On the other hand, the learned Additional Public Prosecutor relies upon the impugned order as well as the record to resist the petition.

5. We have heard the learned counsel for the petitioner and also the learned Additional Public Prosecutor on behalf of the respondents. We have also perused the record of the case.

6. We are of the view that the impugned order cannot be sustained for the following reasons :

(i) The detainee/Thiru. Ravindran @ Suban @Ravichandran was arrested in all six (6) adverse cases, as well as the subject case, on 17.07.2017. The impugned Order, on the other hand, was passed on 22.08.2017. In this petition, notice was issued on 06.11.2017. Despite which, the State has not filed counter affidavit. Thus, the delay in passing the impugned Order remains unexplained.

(ii) As correctly argued by the learned counsel for the petitioner, though the contraband was seized on 17.07.2017, it was received by the concerned Magistrate only on 01.08.2017.

The contraband was sent for forensic analysis only thereafter, i.e., on 07.08.2017. The delay has without doubt prejudiced the cause of the detenu/Thiru. Ravindran @ Suban @Ravichandran.

(iii) As correctly argued by the learned counsel on behalf of the petitioner, a perusal of the paragraph 5 of the impugned order, would show that in the adverse cases as well as in the subject case, bail petitions filed by the detenu/Thiru. Ravindran @ Suban @ Ravichandran were pending on the date when the detention order was passed. Therefore, the conclusion reached by the detaining authority, that there is every likelihood of the detenu/Thiru. Ravindran @ Suban @Ravichandran being enlarged on bail, merely, on the ground that in similar case bail was granted, according to us, is a flawed conclusion.

7. Thus, for the aforesaid reasons, we are inclined to quash the detention order.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.C3/D.O.No.87/2017 dated 22.08.2017, passed by the 2nd respondent is set aside. The detenu, namely, / Thiru. Ravindran @ Suban @Ravichandran, male, aged 30 years, son of Mr.Sekar, 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-)

//True Copy//

Sub Assistant Registrar

ggs/vrc

To:

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

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

3.The Joint Secretary to Government,
Public, Law and Order Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 600 009.

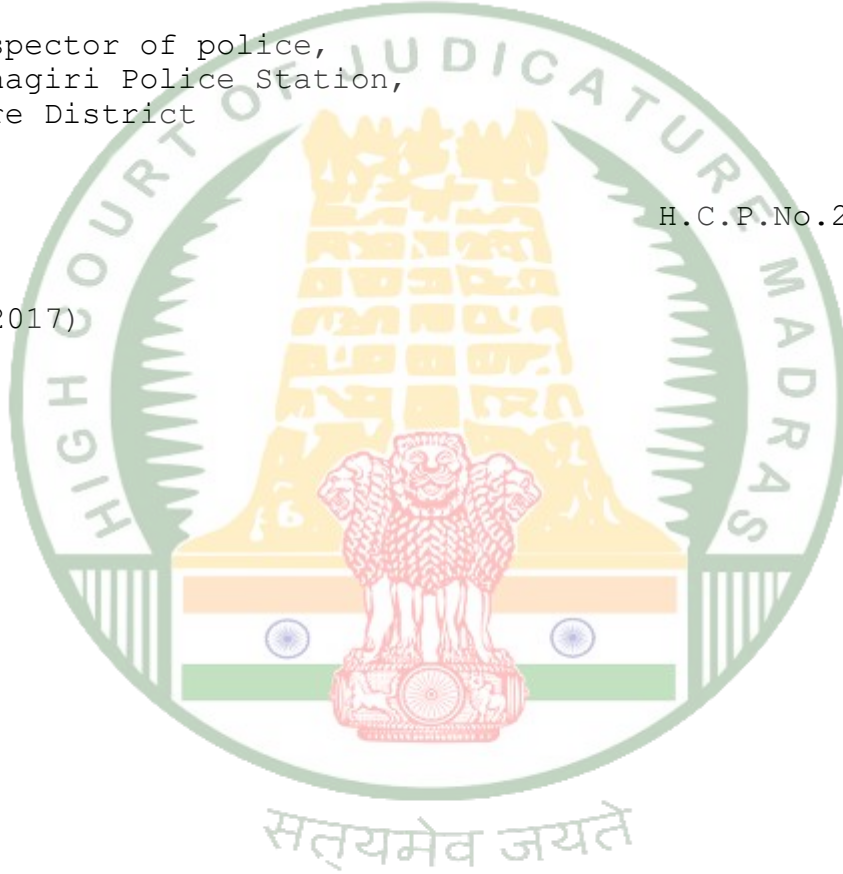
4. The Superintendent, Central Prison,
Vellore.
(in duplicate for Communication to detenue)

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

6. The Inspector of police,
Rathinagiri Police Station,
vellore District

H.C.P.No.2053 of 2017

TR(29/11/2017)



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