

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.12.2017

Coram

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

H.C.P.No.2067 of 2017

Jinnat Begum

... Petitioner

Vs.

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

2.The Commissioner of Police
Chennai Police, Vepety,
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 in No.521/BCDFGISSSV/2017 dated 26.08.2017 passed by the 2nd respondent and set aside the same and directing the respondents to produce the petitioner's son by name Syed Ibrahim @ Kurangu Syed son of Sheik Mohideen aged about 23 years before this Court now confined in Central Prison, Puzhal, Chennai set him at liberty.

For Petitioner : Ms.K.Thenrajan

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 26.08.2017.

2. A perusal of detention order would show that there are three (3) adverse cases noted against the detenu. These being : Crime No.786 of 2016; Crime No.953 of 2017; and Crime No.1013 of 2017.

3. Insofar as the subject case is concerned, the same is registered as : Crime No.1015 of 2017.

4. The record shows that the detenu was arrested on 21.06.2017.

5. We have heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor. We have also perused the record. According to us, the impugned order cannot be sustained for the following reasons:

(i) First, even though the detenu was arrested on 21.06.2017, the impugned detention order was passed only on 26.08.2017. Notice in this petition was issued on 07.11.2017, despite which, no counter affidavit has been filed. Resultantly, the delay in passing the impugned detention order remains unexplained.

(ii) Second even though the bail applications filed by the detenu in Crime No.1015 of 2017, on the date when the impugned order was passed, was pending, the Detaining Authority, based on the fact that in a similar case pertaining to 2014 bail had been granted, has come to the conclusion that the detenu was likely to be enlarged on bail. Pertinently, the date of the bail order granted in the "similar case" has not been indicated in the detention order. According to us, there has been a total non-application of mind by the Detaining Authority. In our opinion, in these circumstances, there was no real and imminent possibility of the detenu being enlarged on bail.

6. Thus, 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.521/BCDFGISSSV/2017 dated 26.08.2017, passed by the second respondent is set aside. The detenu, namely, Syed Ibrahim @ Kurangu Syed, S/o.Sheik Mohideen, male, aged about 23 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.

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Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

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

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

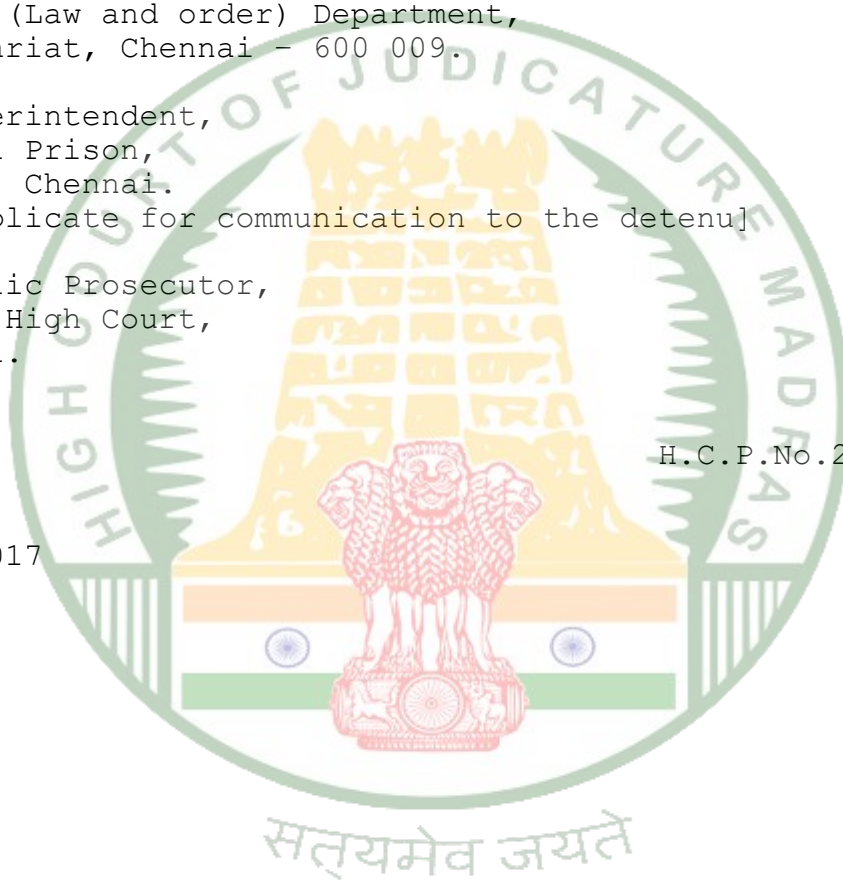
3.The Joint Secretary
Public (Law and order) Department,
Secretariat, Chennai - 600 009.

4.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.2067 of 2017

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