

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.05.2017

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

HCP No.221/2017

Ezhil (a) Ezhilendhi

...Petitioner

Vs

1. State of Tamil Nadu

Rep.by its Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai - 600 009.

2. The Commissioner of Police

Greater Chennai Police

Vepery, Chennai - 600 007.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of Habeas Corpus calling for the records, relating to petitioner's detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 09.01.2017 on the file of the second respondent herein made in proceedings No.11/BCDFGISSSV/2017 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner namely Ezhil (a) Ezhilendhi, son of Shanmugam, aged 35 years before this Hon'ble High Court and set at liberty. now petitioner detained at Central Prison II, Puzhal, Chennai-66.

For Petitioner : Mr.C.C.Chellappan

For Respondents: Mr.E.Raja

Addl. Public Prosecutor

ORDER

[Order of the court was made by M.M.SUNDRESH,J.]

The petitioner - Detenue has come forward to challenge the Detenue Order, dated 09.01.2017, inter alia alleging non-application of mind on the part of detaining authority.

Primarily, it is contended that the detenu was granted bail in the ground case but he is yet to offer sureties on the date of passing of the detention order and that he has not moved any bail application in the 3rd adverse case and therefore, there is no imminent possibility of the detenu, coming out on bail.

2 The learned Additional Public Prosecutor would submit that the detention order has been passed, taking into consideration of the adverse cases and the ground case.

3 From the detention order, we find that it was made primarily on the ground that in the similar cases involving similar offences, usually the accused are let on bail after some time and therefore, notwithstanding the fact that, there is no bail application has been filed, there is a likelihood of detenu coming out on bail. It is also stated therein that the relatives of the detenu are taking steps to move bail application in the 3rd adverse case.

4 We are of the view that the detention order is liable to be set aside for non-application of mind. Admittedly, no bail application is filed in the 3rd adverse case and the names and particulars of the relatives who are likely to take steps, are not indicated.

5 In such view of the matter, we are of the opinion that the detention order, dated 09.01.2017 passed by the second respondent hereby set aside and the detenu is directed to be released forthwith unless his presence is required in connection with other cases.

Sd/-
Assistant Registrar

//True Copy// सत्यमेव जयते

Sub Assistant Registrar

AP

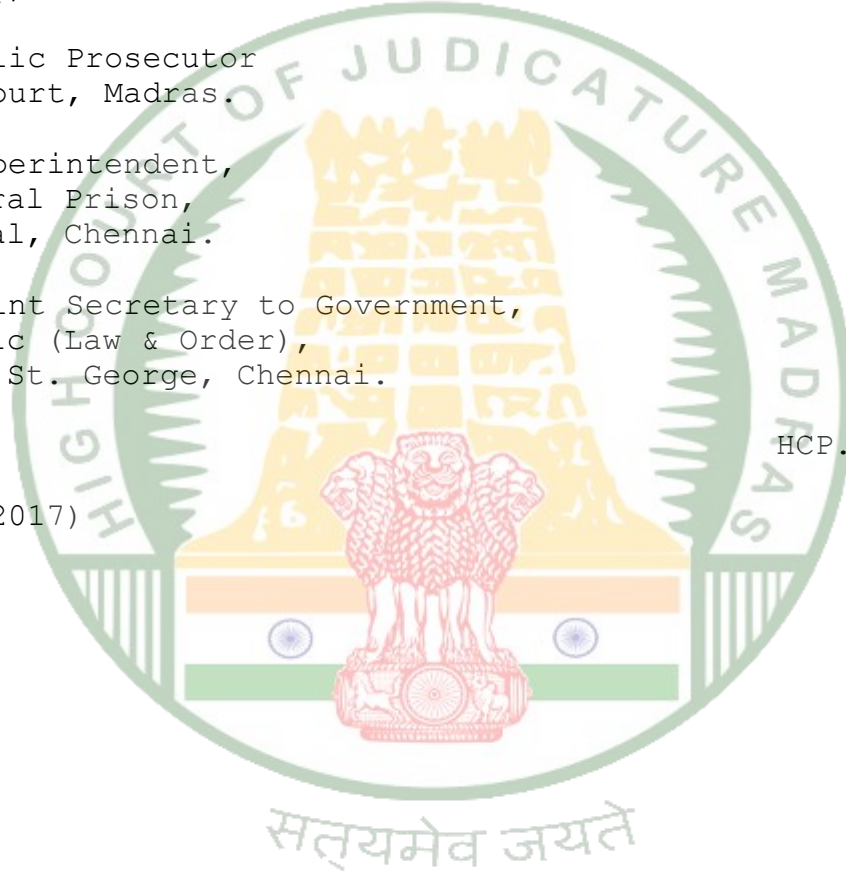
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To

1. State of Tamil Nadu
Rep.by its Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai - 600 009.
2. The Commissioner of Police
Greater Chennai Police
Vepery, Chennai - 600 007.
- 3.The Public Prosecutor
High Court, Madras.
4. The Superintendent,
Central Prison,
Puzhal, Chennai.
5. The Joint Secretary to Government,
Public (Law & Order),
Fort St. George, Chennai.

SCD(CO)
RS(09/06/2017)

HCP.No.221/2017



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