

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.12.2017

Coram

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

H.C.P.No.2306 of 2017

Imran @ Mohammed Imran

... Petitioner

Vs.

1.The Secretary to Government (Home),
Prohibition and Excise Department
Secretariat, Chennai - 600 009.

2.District Collector and District Magistrate,
Krishnagiri District,
Krishnagiri.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records on the file of the first respondent herein and set aside the order of detention DTDA No.4942 dated 29.04.2017, issued by the 2nd respondent under S.C.No.21 of 2017 dated 28.04.2017 and direct the respondents to produce the body of Imran @ Mohammed Imran, son of Lalbai, presently confined into Central Prison, Salem, before this Court and set him at liberty release him forthwith from custody.

For Petitioner : Mr.S.Arokia Maniraj
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, which seeks to assail the detention order dated 28.04.2017.

2. A perusal of the detention order would show that there are four (4) adverse cases noted against the detenu. These

being : Crime No.540 of 2016; Crime No.4 of 2017; Crime No.21 of 2017; and Crime No.46 of 2017.

3. Insofar as the subject case is concerned, it is registered as : Crime No.48 of 2017.

4. The record shows that the detenu was arrested on 04.02.2017.

4.1. Furthermore, the record also shows that the detenu had not moved for bail in any of the cases, which includes both the adverse cases as well as the subject case. The only reason that the Detaining Authority appears to have come to the conclusion that there was likelihood of the detenu being enlarged on bail was that in similar cases bail had been granted in 2014.

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, even though the detenu was arrested on 04.02.2017, the impugned detention order was passed on 28.04.2017. Notice in this petition was issued on 05.12.2017, despite which, no counter affidavit has been filed. Resultantly, the delay in passing the impugned detention order remains unexplained.

(ii) Second, even according to the Detaining Authority, no bail petitions were moved by the detenu either in the adverse cases or in the subject case. The Detaining Authority, however, in our view, erroneously has entertained an apprehension that because bail was granted in similar cases in 2014, there was a likelihood of the detenu being enlarged on bail. According to us, there has been a complete non application of mind.

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 S.C.No.21 of 2017, dated 28.04.2017, passed by the second respondent is set aside. The detenu, namely, Imran @ Mohammed Imran, S/o.Lala bai, male, aged about 28 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/-
Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

To

- 1.The Secretary to Government (Home),
Prohibition and Excise Department
Secretariat, Chennai - 600 009.
- 2.District Collector and District Magistrate,
Krishnagiri District,
Krishnagiri.
- 3.The Joint Secretary
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
- 4.The Superintendent,
Central Prison,
Salem.
[In duplicate for communication to the detenu]
- 5.The Public Prosecutor,
Madras High Court,
Chennai.

+1cc to Mr.S.Arokia Maniraj, Advocate in sr.no.88087

सत्यमेव जयते H.C.P.No.2306 of 2017

NR 12/12/2017

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