

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.05.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Habeas Corpus Petition No.247 of 2017

Soundarajan

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.

2. The District Collector and District Magistrate,
Vellore District.
Vellore - 9.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records relating to the detention order passed by the second respondent dated 20.01.2017 in Memo No. C3.D.O.No.07/2017 against the petitioner's son Anandan, S/o. Soundarajan, aged about 32 years, who is now confined at Central Prison, Vellore and set aside the same and direct the respondents to produce him before this Court and set at liberty.

For Petitioner : Mr.T.Arul

For Respondents : Mr.E.Raja,
Additional Public Prosecutor

O R D E R

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

The petitioner, is the father of the detenu Anandan, S/o Soundarajan, aged about 32 years. Seeking to quash the detention order in Memo No. C3.D.O.No.07/2017 passed by the second respondent under the provisions of the Tamil Nadu Act 14 of 1982 branding him as a "Bootlegger" by an impugned Detention Order dated 20.01.2017, the petitioner is before this Court with this Habeas Corpus Petition.

2.The learned counsel for the petitioner would submit that there is non-application of mind on the part of the detaining authority. The particulars of the bail applications filed for adverse cases 4 and 5 have not been taken into consideration. It is further submitted that there is no real possibility of the detenu coming out on bail, since, he has already been remanded in the ground case. Thus, there involves non-application of mind on the part of the detaining authority while passing the detention order.

3. We have considered the submissions made by the counsel of the petitioner. If there are no bail applications filed in so far as adverse cases 4 & 5 are concerned, then there is no question of bail orders being granted. Without considering this fact, the detaining authority has passed the detention order.

4.In such case, we are of the view that there is non-application of mind, with reference to the likelihood of the petitioner coming out on bail. Therefore, we are inclined to set aside the detention order dated 20.01.2017.

5.Accordingly, the Habeas Corpus Petition is allowed and the detention order dated 20.01.2017, passed by the second respondent, is quashed. The detenu Anandan, S/o. Soundarajan is directed to be set at liberty, forthwith, unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cla/sts

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai 600 009.
2. The District Collector and District Magistrate,
Vellore District.
Vellore - 9.
3. The Superintendent,
Central Prison, Vellore.

4. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.

5. The Public Prosecutor,
High Court, Madras.

H.C.P. No.247 of 2017

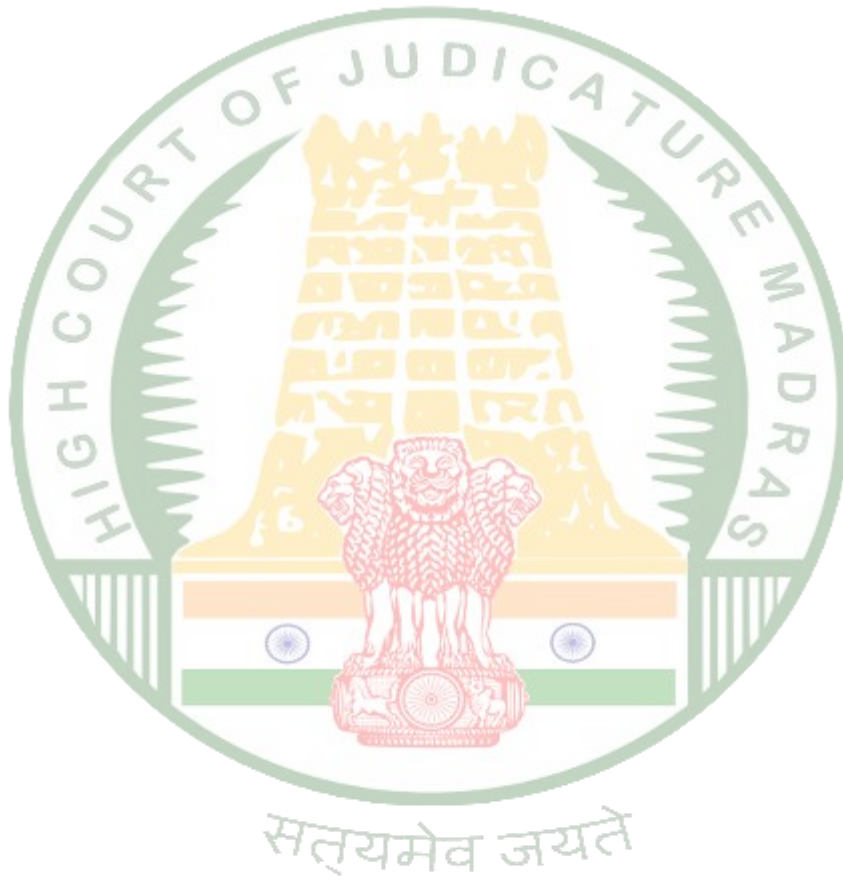
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M.M.SUNDRESH, J.
and
R.MAHADEVAN, J.

cla/sts



Order in

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