

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. No.723 of 2017

Indhra Petitioner/Mother of detenue

-vs-

1. State of Tamil Nady
Rep. By the Secretary
Home (Prohibition and Excise Department)
Secretariat, Chennai - 600 009.

2. The Commissioner of Police
Greater Chennai
Vappary, Chennai.

.... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records relating to the Detention order Memo No.152/BCDFGISSSV/2017 dated 10.04.2017 passed by the second respondent under Tamil Nadu Act 14/1982 and quash the same and direct the respondent to produce the detenu Praveen @ Praveen Kumar @ Peevetti Praveen Kumar son of Siva male aged 24 years at liberty.

For Petitioner : Mr.S.Vellidoss

For Respondents : Mr. V.M.R.Rajentran
Additional Public Prosecutor

O R D E R

[Order of the Court was made by N.SATHISH KUMAR, J.]

The petitioner is the mother of the detenu, namely, Praveen @ Praveen Kumar @ Peevetti Praveen Kumar, S/o.Siva, Male, aged about 24 years. The detenu has been detained by the 2nd respondent vide order bearing No.152/BCDFGISSSV/2017 dated 10.04.2017, holding him to be a " Goonda", as contemplated under 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. The learned counsel for the petitioner would submit that the Detaining Authority has passed the order of detention on the ground that in the similar case in Crime No.384 of 2015 on the file of Soundarapandian Angadi Police Station, under Sections 341, 294(b), 336, 427, 392, 397 and 506(ii) IPC, bail was granted and hence, there is imminent possibility of the detenu being enlarged on bail in the said case. Hence, it is submitted that the Detaining Authority has passed the order of detention mechanically without application of mind.

4. Per contra, the learned Additional Public Prosecutor while reiterating the averments in the counter affidavit submits that the order of detention has been passed on cogent and sufficient materials and the same cannot be interfered with at the instance of the petitioner.

5. On a perusal of the impugned order of detention, we find that the Detaining Authority has stated that there is a real possibility of the detenu being enlarged on bail. Though the detaining authority has placed reliance on similar cases in which accused were granted bail, the facts involved in those cases were different. Therefore, clearly, there is no material on record, which would substantiate that there is real possibility of the detenu being enlarged on bail. The detention order, to our minds, has been passed mechanically without application of mind. Therefore, on this ground, the detention order is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention contained in Memo No.152/BCDFGISSSV/2017 dated 10.04.2017, passed by the 2nd respondent is set aside. The detenu, namely, Praveen @ Praveen Kumar @ Peevetti Praveen Kumar, S/o.Siva, Male, aged about 24 years, is directed to be released forthwith unless his detention is required in connection with any other 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

/TRUE COPY/

Sub Assistant Registrar

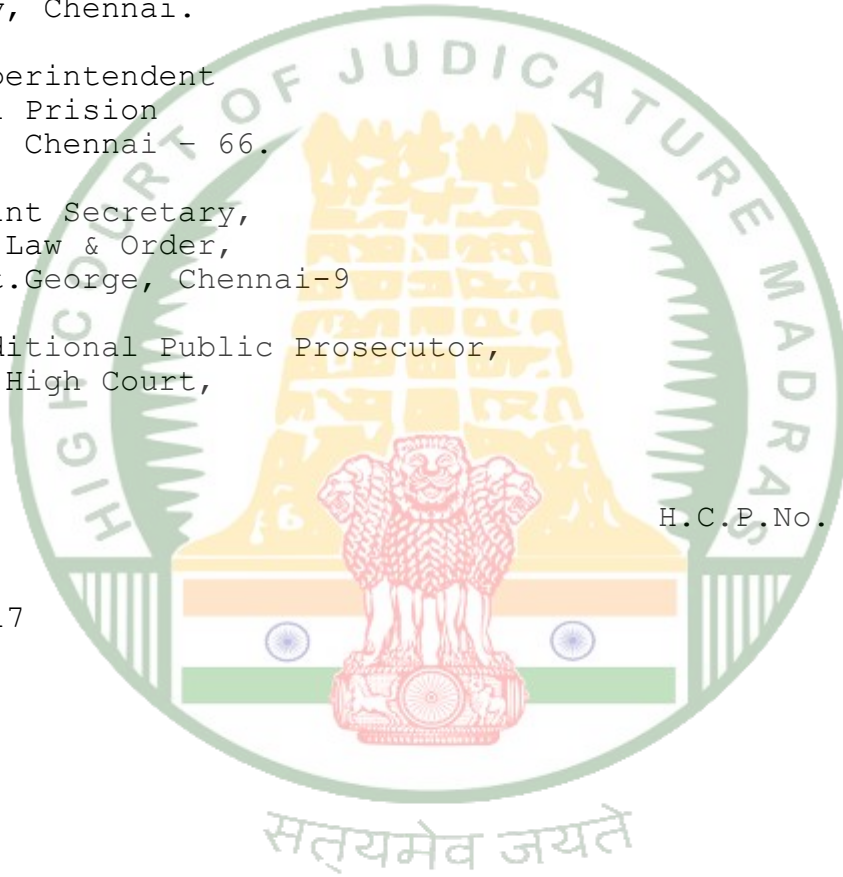
vsm/ga

To:

1. The Secretary
Prohibition and Excise Department (Home)
Fort. St.George, Chennai - 600 009
2. The Joint Secretary
Prohibition and Excise Department (Home)
Fort. St.George, Chennai - 600 009
3. The Commissioner of Police
Greater Chennai
Vappary, Chennai.
4. The Superintendent
Central Prison
Puzhal, Chennai - 66.
5. The Joint Secretary,
Public Law & Order,
Fort St.George, Chennai-9
6. The Additional Public Prosecutor,
Madras High Court,
Madras

H.C.P.No. 723 of 2017

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