

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.7.2017

CORAM :

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO
AND
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

HABEAS CORPUS PETITION NO.801 OF 2017

Tmt.Affiya

...Petitioner/
Mother of the detenu

Vs

1. The State rep.by the Superintendent of Central Prison, Vellore, Vellore District.
 2. The Deputy Superintendent of Police, Counterfeit Currency Wing, Egmore, Chennai-8.
- ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Habeas Corpus directing the respondents to produce the detenu Babu (a) Shahul Hameed, S/O Raja Moideen before this Court, now confined at Central Prison, Vellore and set him at liberty.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.Rajarathinam, Public Prosecutor
assisted by Mr.R.Ravichandran,
GA (Crl.Side)

ORDER

(Order of the Court was made by NOOTY.RAMAMOHANA RAO,J)

It is also the plea of Sri.R.Sankarasubbu, learned counsel that at least the detenu should have been enlarged on bail. He also presses into service the detailed order passed by the Supreme Court on 03.1.2017 in Criminal Appeal Nos.11 and 12 of 2017, arising out of S.L.P.(Crl.) Nos.7947 and 7949 of 2015, which, in turn, arose out of the judgment dated 10.4.2015 in Crl.A.No.1657 of 2014 passed by the High Court of Bombay, in the

case of Sagar Tatyaram Gorkhe and another Vs. State of Maharashtra. The learned Judges have adverted to an earlier order passed by the Supreme Court on 12.7.2016 in the said matter where it was recorded that the trial in that case would be completed within a period of six months.

2. But however, when the matter was taken up again on 03.1.2017, nearly after the expiry of the six months' period from 12.7.2016, the Supreme Court has been informed that only one witness has been examined at the trial and that the prosecution has proposed to examine 147 witnesses in all. It was also recorded by the Supreme Court that the accused have been in custody close to four years.

3. Sri.R.Sankarasubbu, learned counsel would submit that even in the instant case, only one witness has been examined so far and there are still 40 more witnesses to be examined and therefore, the pious hope expressed by the learned Additional Public Prosecutor that the trial would be completed in three months' time may not really materialize. It was also further urged that the detenu was in custody for the past over three years and therefore, nearly 50% of the possible sentence, that can be handed down upon conviction of the accused, has already been undergone. Therefore, the learned counsel for the writ petitioner presses hard for us to follow faithfully the order passed by the Supreme Court on 03.1.2017 in Sagar Tatyaram Gorkhe's case.

4. The Supreme Court, in near identical fact situation, considered that the matter was deserving privilege of bail. Therefore, it directed the Trial Court to take up the bail application and hear the learned Public Prosecutor in the matter and impose appropriate conditions, subject to which, the detenu can be enlarged on bail.

5. We, therefore, follow the same dictum and accordingly direct the Trial Court to immediately consider enlarging the detenu on bail after hearing the objections, if any, of the learned Public Prosecutor and then also impose appropriate and suitable conditions for enlarging the detenu on bail. We also consider it appropriate to direct the Trial Court to complete the trial as expeditiously as possible, at any rate, before 15th of November 2017 and to achieve this objective, unnecessary adjournments of the case be avoided and even if necessary, to adjourn the case, the case may be adjourned by reasonably shorter duration as is considered appropriate by the Trial Court.

6. Subject to the above observations, the above writ petition stands disposed of.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

To

- 1.The Secretary to Government,
Prohibition and Excise Department,
Fort St.George, Chennai-9.
- 2.The Superintendent, Central Prison,
Vellore, Vellore District.
- 3.The Deputy Superintendent of Police,
Counter Feit Currency Wing,
Egmore, Chennai-8.
- 4.The Joint Secretary to Government,
Public (Law & Order)
Fort St.George, Chennai-9.
- 5.The Public Prosecutor,
High Court, Madras.
- 6.The V Additional Sessions Judge,
(Special court for unlawful Activities Act,1967)
Chennai.

+1cc to Mr.R.Sankarasubbu, Advocate Sr. 50065
+1cc to the Public Prosecutor, Sr. 49958

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HCP.No.801 of 2017

Advance Order Copy

VR(20/07/2017)