

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2017

CORAM:

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

H.C.P. No.869 of 2017

Sharmina

... Petitioner

-vs-

The State represented by its

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

2.The District Collector and District Magistrate,
Salem, Salem District. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records relating to the detention order dated 22.05.2017 passed by the 2nd respondent in C.M.P.No.28/GOONDA/C2/2017, quash the same and produce Dhandapani aged about 28 years S/o Gopal, before this Court and set him at liberty, who is confined at Central Prison, Salem.

For Petitioner : Mr. S. Senkodi
for M/s.D.Mario Johnson

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 wife of the detenu, namely, Dhandapani, S/o. Gopal, Male, aged about 28 years. The detenu has been detained by the 2nd respondent by his order in C.M.P.No.28/GOONDA/C2/2017 dated 22.5.2017, 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 two cases have been registered by the very same police station, though complainants were different. Thus, they have foisted the cases against the petitioner. He would further submit that the Detaining Authority has not satisfied itself as to the real possibility of the detenu coming out on bail.

4. Per contra, the learned Additional Public Prosecutor while reiterating the averments in the counter affidavit would submit 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 was a real possibility of the detenu coming out on bail. Admittedly, at the time of passing the Detention Order, no bail application was pending in the adverse cases and the ground case. Though the detaining authority has made reliance on similar cases in which accused were granted bail, the facts involved in those cases are different. Hence, there is no material to substantiate that there is real possibility of the detenu coming out on bail and the said order was 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 in C.M.P.No.28/GOONDA/C2/2017, dated 22.05.2017, passed by the 2nd respondent is set aside. The detenu, namely, Dhandapani son of Gopal, aged about 28 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/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

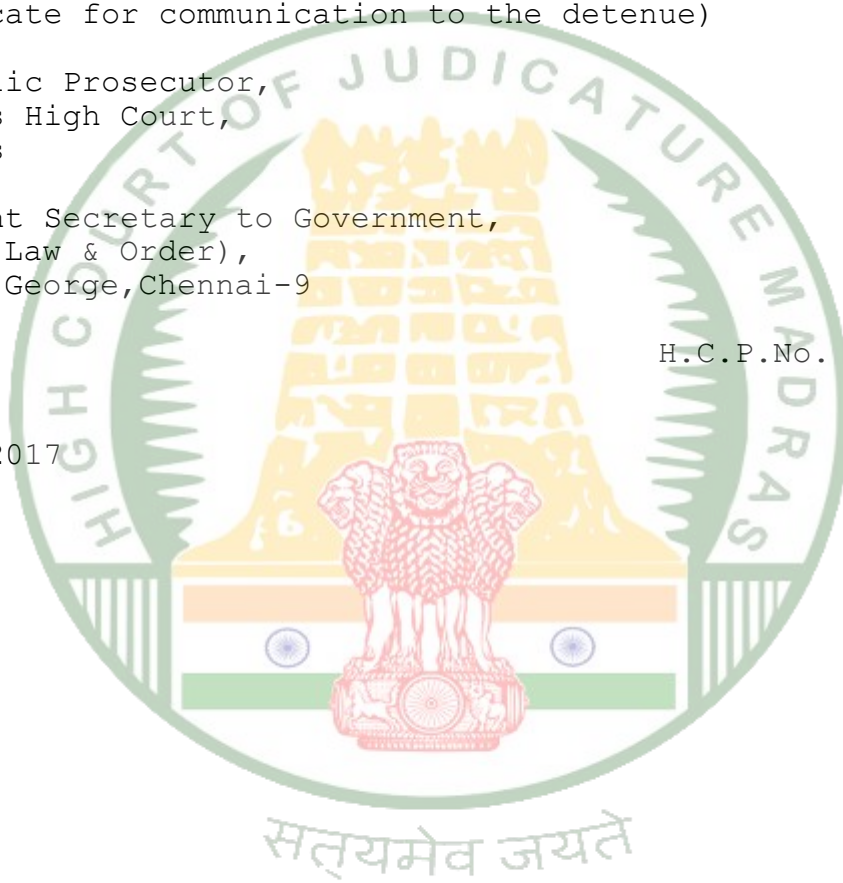
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To:

1. The Secretary
Prohibition and Excise Department (Home)
Fort. St.George, Chennai - 600 009
2. The Commissioner of Police
The Commissioner Office, Vepery, Chennai.
3. The Superintendent,
Central Prison, Salem.
(in duplicate for communication to the detainee)
4. The Public Prosecutor,
Madras High Court,
Madras
5. The Joint Secretary to Government,
Public (Law & Order),
Fort St.George, Chennai-9

H.C.P.No. 869 of 2017

GP (CO)
NR 12/10/2017



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