

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.11.2017

Coram

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

H.C.P.No.882 of 2017

Padma

... Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department
Government of Tamil Nadu
Fort St. George,
Chennai - 9.

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

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire connected with the order of the 2nd respondent herein in Memo No.246/BCDFGISSSV/2017 dated 09.05.2017, against the detenu namely Suresh Babu @ Muthuramalingam, Son of Chellappa aged about 31 years, who is confined at Central Prison, Puzhal, Chennai and set aside the same, consequently, directing the respondents herein to produce the body and person of the detenu before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Sasikumar
For Respondents : Mr.V.M.R.Rajentran,
Addl. Public Prosecutor.

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O R D E R
(Order of the Court was made by RAJIV SHAKDHER, J)

1. This is a petition, which seeks to challenge the detention order dated 09.05.2017.

2. Insofar as the detenu is concerned, one (1) adverse case (Crime No.715 of 2017) has been noted qua him. In the adverse case, the detenu has been booked under Sections 341 and 302 of the IPC.

3. As regards the subject case (Crime No.723 of 2017), the detenu has been booked under Sections 341, 294(b), 336, 427, 397 and 506(ii) of the IPC. The record shows that the detenu was arrested on 14.03.2017.

4. A perusal of paragraph No.4 of the impugned order shows that the detenu has not moved any application for being enlarged on bail either in the adverse case (Crime No.715 of 2017) or the subject case (Crime No.723 of 2017).

5. There are, however, two (2) reasons cited in the impugned order, based on which, the Detaining Authority has come to the conclusion that there is a real likelihood of the detenu being released on bail are: First that the relatives of the detenu, may file bail applications in the aforementioned cases before the appropriate Court to the detenu released. Second that in a similar cases, bail was granted by this Court. Bail application referred to in the impugned order is Crl.O.P.No.9556 of 2013. There is also a reference to another case i.e., Crl.M.P.No.5852 of 2016. The dates of the order passed by this Court in the so called similar cases have not been adverted to in the impugned order.

5. Having regard to the aforesaid circumstances, we are of the view that the Detaining Authority's conclusion, that, there is a real and imminent possibility of detenu being enlarged on bail, is flawed. The detenu, admittedly, has not moved any bail application in the aforementioned cases. The fact that the relatives may move for bail cannot be a ground to entertain such an apprehension. Furthermore, similar cases pertain to 2013 and 2016. This apart, as indicated above, though the detenu was arrested on 14.03.2017, the impugned order was passed, after much delay, i.e., on 09.05.2017.

6. Thus, for all the reasons, 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 Memo No.246/BCDFGISSSV/2017 dated 09.05.2017, passed by the second respondent is set aside. The detenu, namely, Sureshbabu @ Muthuramalingam, S/o.Chellappa, male, aged about 31 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(CS VIII)

//True Copy//

Sub Assistant Registrar

vsm

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department
Government of Tamil Nadu
Fort St. George,
Chennai - 9.
- 2.The Commissioner of Police
Greater Chennai
Vepery, Chennai.
- 3.The Superintendent,
Central Prison,
Puzhal, Chennai.
- 4.The Public Prosecutor,
Madras High Court,
Chennai.
5. The Joint Secretary to Govt
Public Laws Order Secretariat
Chennai-9

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