

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.10.2017

Coram

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

H.C.P.No.894 of 2017

P.Anbu

... Petitioner

Vs.

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

2.The District Collector and District  
Magistrate, Cuddalore District,  
Cuddalore.

... 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 in No.C3/D.O/22/2017, dated 08.05.2017 passed by the 2<sup>nd</sup> respondent against the detenu, Pandu @ Pandurangan, S/o.Iyyanar, aged 35 years, now confined in Central Prison, Cuddalore and to set aside the same and to direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthil Murugan

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 assail the order of detention dated 08.05.2017 passed in No.C3/D.O/22/2017 by the second respondent in exercise of his powers conferred under Section 3(1) of the Tamil Nadu Prevention of dangerous

activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (in short 'Tamil Nadu Act 14 of 1982'). The said detention order has been passed under Section 2 (b) of the Tamil Nadu Act 14 of 1982, branding the detenu as a "Bootlegger".

2.The petitioner, who is the wife of the detenu, has assailed the order of detention on the ground that it has been passed without application of mind and contrary to law.

3.There are four adverse cases (Cr.Nos.871/2016, 56/2017, 110/2017 and 125/2017) pertaining to the detenu, which have been noted by the detaining authority. Insofar as the subject case is concerned, because of which the detenu stands detained, it is numbered as Cr.No.260/2017.

4.Learned counsel appearing on behalf of the detenu says that there has been a total non-application of mind by the detaining authority, In this behalf, our attention has been drawn to paragraph 6 of the impugned order.

5.On the other hand, learned Additional Public Prosecutor, relies upon the detention order to resist the petition.

6.We have perused the detention order. A perusal of the detention order would show that even according to the detaining authority, bail application qua Cr.No.260/2017 was filed by the detenu before the District Sessions Judge, Cuddalore, on 24.04.2017, in CrI.M.P.No.1757/2017. This bail application was dismissed, as indicated in the impugned order, on 29.04.2017. The impugned order further shows that another bail application was filed by the detenu on 04.05.2017, albeit, before the Vacation Sessions Judge, in CrI.M.P.No.20/2017 and the same was dismissed on 05.05.2017. The detaining authority further notes that in a similar case being CrI.M.P.No.1761/2017, bail was granted on 27.04.2017.

7.According to us, the order passed by the detaining authority displays total non-application of mind. The reason for the same is, even though bail applications filed by the detenu in Cr.No.260/2017, admittedly, stand dismissed, an apprehension is entertained that he may be released on bail, because in a similar case, bail was granted by the concerned Court.

8.We also note that notice in this petition was ordered on 06.06.2017 and despite opportunities being given to the State,

no counter-affidavit has been filed, resultantly, the assertions made in this petition have gone un-rebutted.

9. For all these reasons, we are inclined to quash the impugned order of detention and allow this Habeas Corpus Petition.

10. In the result, the Habeas Corpus Petition is allowed and the order of detention dated 08.05.2017 passed in C3/D.O/22/2017 by the second respondent is set aside. The detenu, namely, Pandu @ Pandurangan, Son of Iyyanar, male aged about 35 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 V)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,  
Home, Prohibition and Excise Dept.,  
Fort St. George, Chennai 600 009.

2. The District Collector and District  
Magistrate, Cuddalore District,  
Cuddalore.

3. The Superintendent,  
Central Prison, Cuddalore.

4. The Joint Secretary to Government,  
Public (Law & Order) Department,  
Secretariat, Ch-9

5. The Public Prosecutor,  
Madras High Court, Chennai.

H.C.P.No.894 of 2017

ss(31/10/2017)