

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.11.2017

Coram

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

H.C.P.No.951 of 2017

Radha

... Petitioner

Vs.

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

2.The Commissioner of Police
Greater Chennai Police
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 passed by the 2nd respondent pertaining to the order made in BCDFGISSSV No.237/2017, dated 08.05.2017 is detaining the detenu under 2(f) of Tamil Nadu Act 14 of 1982 as a Goonda and quash the same and direct the respondents to produce the detenu Rajkumar @ Olairaj, Son of Lakshmikanthan, aged about 22 years, who is detained at the Central Prison, Puzhal, Chenna before this Court and set him at liberty.

For Petitioner : Mr.P.Sundarajan

For Respondents : Mr.V.M.R.Rajentran,

Addl. Public Prosecutor.

ORDER

(Order of the Court was made by **RAJIV SHAKDHER, J**)

1. This is a petition seeks to assail the detention order dated 08.05.2017.

2. Qua the detenu, in the impugned order, three (3) adverse cases have been noted. These being : Crime Nos.701/2014, 2495/2015, and 591/2016. Insofar as the subject case is concerned (Crime No.390 of 2017), the detenu has been booked under Sections 341, 392, 397, 294(b), 336, 427, and 506(ii) of the IPC. The record shows that the detenu was arrested on 21.02.2017.

3. A perusal of paragraph No.5 of the impugned order shows that the Detaining Authority has entertained an apprehension that the detenu will be enlarged on bail, as in a similar case, bail was granted by the learned Principal Sessions Judge, Chennai in Crl.M.P.2805 of 2015.

4. We have heard the learned counsel for the parties as well as the learned Additional Public Prosecutor and perused the records.

5. According to us, the impugned order cannot be sustained for the following reasons:

(i) First, even though the detenu was arrested on 21.02.2017, the detention order was passed, after much delay, i.e., on 08.05.2017.

(ii) Second, the bail application filed by the detenu in the subject case, i.e., Crime No.390 of 2017 is pending.

(iii) Lastly, in a similar case, bail was granted by the learned Principal Sessions Judge, Chennai in Crl.M.P.2805 of 2015, that is, nearly, two (2) years prior to the date, when, the impugned order was passed. According to us, there is no real and imminent possibility of the detenu being enlarged on bail.

6. Thus, for the foregoing reasons, we are of the view that the detention order needs to be quashed. It is ordered accordingly.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSV No.237/2017, dated 08.05.2017, passed by the second respondent is set aside. The detenu, namely, Rajkumar @ Olairaj, S/o.Lakshmikanthan, male, aged about 22 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.

(R.S.A., J.)

(N.S.K., J.)

08.11.2017

Index : yes/no
vsm

Note: Issue order copy today



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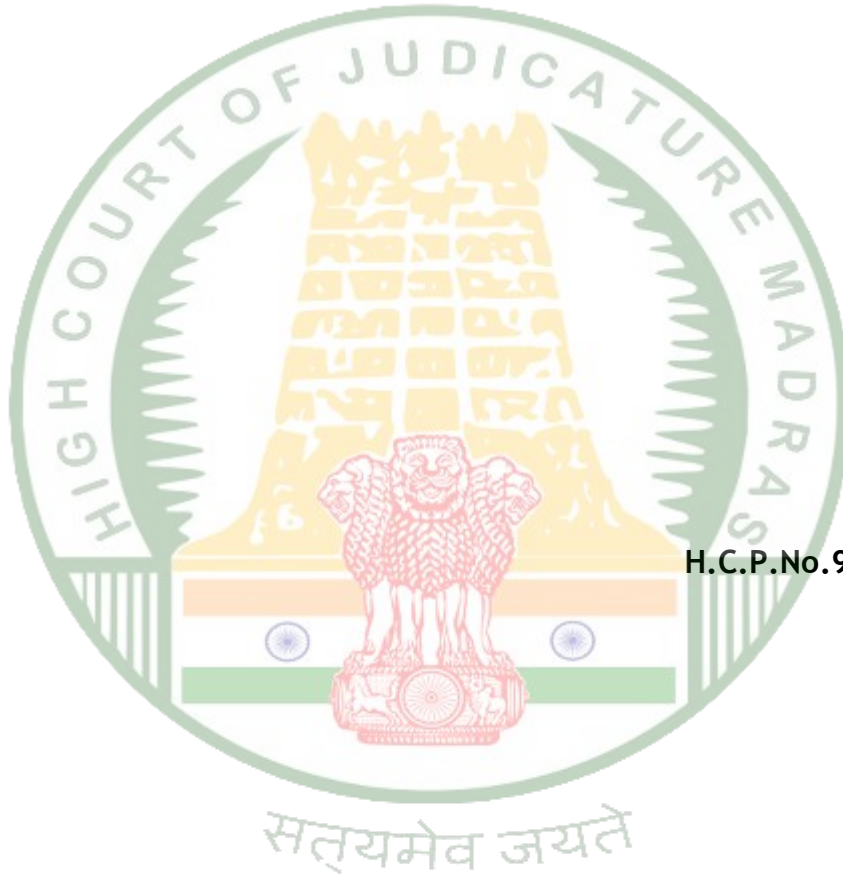
- 1.The Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai - 9.
- 2.The Commissioner of Police
Greater Chennai Police
Chennai.
- 3.The Superintendent,
Central Prison,
Puzhal, Chennai.
- 4.The Public Prosecutor,
Madras High Court,
Chennai.



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RAJIV SHAKDHER, J.
and
N.SATHISH KUMAR, J.

vsm



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