

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 30.10.2017
CORAM:
THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR
H.C.P. No.977 of 2017

N.Balachandran

... Petitioner/Uncle of the
detenu

-vs-

1.State of Tamil Nadu rep.by
The Secretary to Government,
Home, Prohibition Excise Department,
Fort St. George,
Chennai-600 009.

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

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents to produce the petitioners relative by name Sarath @ Sarath Kumar, Son of Ravichandran, Male, aged about 23 years before this Court now confined in Central Prison, Vellore, set him at liberty and to call for the records pertaining to the order of detention passed in B.C.D.F.G.I.S.S.S.V. No.41/2017 dated 22.05.2017 passed by the 2nd respondent and set aside the same.

For Petitioner : Mr.S.Krishnamoorthy
For Respondents: Mr. V.M.R.Rajentran
Additional Public Prosecutor

सत्यमेव जयते
O R D E R

[Order of the Court was made by RAJIV SHAKDHER, J.]

1. Challenge is made by the petitioner, who is the uncle of the detenu, one, Sarath @ Sarath Kumar, Son of Ravichandran, Male, aged about 23 years, qua the detention order dated 22.05.2017. There are two adverse cases cited in the detention order.

2.In so far as the ground case is concerned, the petitioner appears to have been accused of offences under Sections 147, 148, 302, 109 and 120B of IPC. To be noted, the ground case has been registered as Crime No.241 of 2017. The detenu has been

incarcerated under the provisions of Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

3. Qua the ground case, the detaining authority, via, the impugned detention order notes that the detenu has not moved a bail application. The detaining authority seems to be apprehensive of the fact that the relative of the detenu, that is, the petitioner herein, is likely to move a bail petition.

3.2. This apart, the detaining authority has stated that since, in a similar case, bail was granted, it apprehends that an identical result will come by the detenu and hence, the imminent need to pass the impugned order.

3.3. The bail order referred to is dated 22.01.2014, which, evidently, was passed in CMP.No.94 of 2014 and pertained to Crime No.727 of 2013.

4. According to us, apart from anything else, there has been a total non-application of mind by the detaining authority. The detenu was arrested in Crime No.241 of 2017, on 07.04.2017. The bail in the similar case was granted on a date prior to the date, when, the detenu was detained. Furthermore, even according to the detaining authority, the detenu has not, to date, moved a bail petition in Crime No.241 of 2017. Merely because the petitioner, (i.e., the uncle) may move for grant of bail to the detenu, cannot be the reason for detaining him under the provisions of the Tamil Nadu Act 14 of 1982.

5. For the forgoing reasons, we are of the view that the detention order needs to be quashed. It is ordered, accordingly.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in B.C.D.F.G.I.S.S.V. No.41/2017, dated 22.05.2017, passed by the 2nd respondent is set aside. The detenu, namely, Sarath @ Sarath Kumar, Son of Ravichandran, Male, aged about 23 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 VI)

//True Copy//

Sub Assistant Registrar

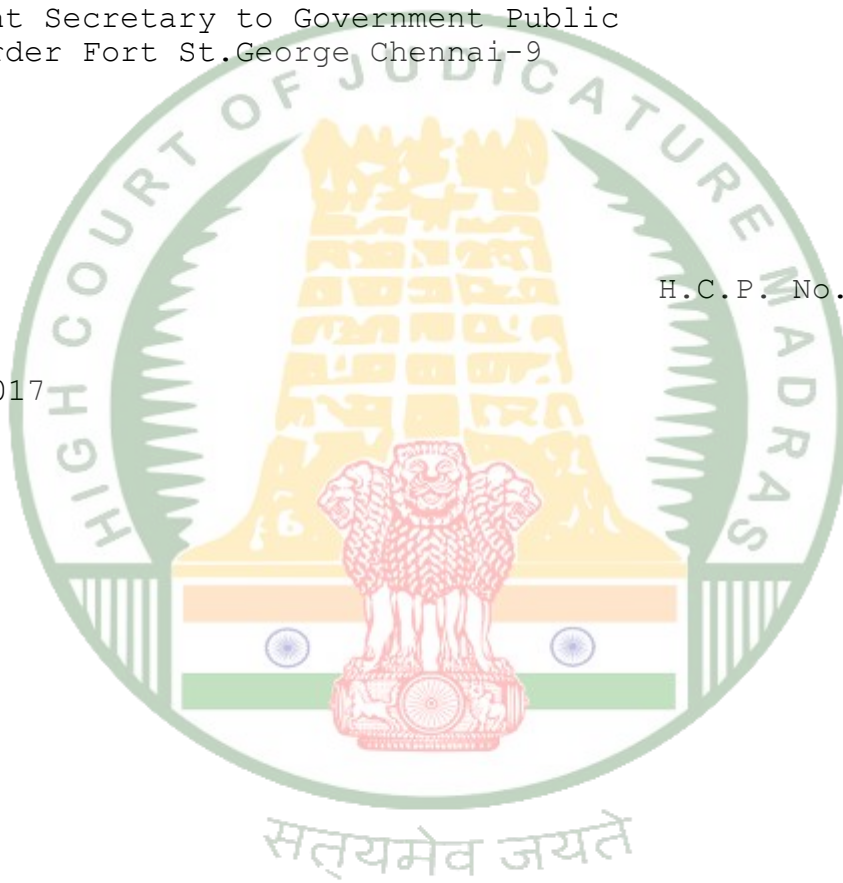
To:

- 1.The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition Excise Department,
Fort St. George, Chennai-600 009.
- 2.The District Collector and District Magistrate,
Kancheepuram District, Kancheepuram.
- 3.The Superintendent Central Prison, Vellore.
- 4.The Additional Public Prosecutor,
Madras High Court, Madras

5.The Joint Secretary to Government Public
Law and order Fort St.George Chennai-9

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