

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.01.2018

Coram

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

H.C.P.No.1961 of 2017

M.Devi

... Petitioner

Vs.

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

2.District Magistrate &
District Collector
Thiruvallur District
Thiruvallur-9

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, call for the records relating to the detention order in BCDFGISSSV No.35/2017 dated 06.10.2017 on the file of the second respondent and quash the same and directing the respondents to produce the corpus of the detenu C.Mohan, S/o.Chinnadurai aged about 43 years residing at Ponnamman Nagar, Keezh Ayanambakkam, Chennai - 600 095 (now detained at Central Prison-II, Puzhal) before this Court and set him at liberty.

For Petitioner : Mr.S.Kumara Devan

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

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 detention order dated 06.10.2017.

2. A perusal of the record shows that the subject case is the only case registered against the detenu. The subject case is numbered as : Crime No.478 of 2017.

3. The record further shows that on the date, when the impugned order was passed, the bail petition filed by the detenu, i.e, Crl.M.P.No.3459 of 2017 was pending adjudication. The Detaining Authority, however, came to the conclusion that the detenu was likely to indulge in further activities, which could be prejudicial to the maintenance of public order.

4. Having perused the record and also the impugned order, we are of the view that there is no material on record to suggest that if the petitioner were to be released on bail, it would impact the public order. This finding given by the Detaining Authority without adverting to the relevant material. Insofar as the result of the bail petition is concerned, the same will depend on facts and circumstances of the case. The concerned Court, we are sure, will take the facts and circumstances of the case into account, while, adjudicating upon the detenu's bail petition. Be that as it may on the date, when the impugned order was passed, the bail petition was pending. Therefore, quite clearly, on that date, the result of the bail petition was not known and thus, the conclusion reached that the detenu's release would be prejudicial to maintenance of public order was obviously erroneous.

4.1. Furthermore, though the detenu was arrested on 31.07.2017, the detention order was passed only on 06.10.2017. Notice in this petition was issued on 25.10.2017, despite which no counter affidavit has been filed by the State. Resultantly, the delay in passing the impugned order remain unexplained.

5. In these circumstances, for the foregoing reasons, we are inclined to quash the impugned order. It is directed accordingly.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.35/2017 dated 06.10.2017, passed by the second respondent is set aside. The detenu, namely, Mohan, S/o.Chinnadurai, male, aged about 43 years, is directed to be released forthwith unless his detention is required in connection with another 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-)

//True Copy//

Sub Assistant Registrar

vsm

To

1.The Secretary to Government,
Prohibition & Excise Department,
Fort St. George,
Chennai - 600 009.

2.District Magistrate &
District Collector
Thiruvallur District
Thiruvallur-9

3.The Joint Secretary
Public (Law and order) Department,
Secretariat, Chennai - 600 009.

4.The Superintendent,
Central Prison,
Puzhal II, Chennai.
[In duplicate for communication to the detenu]

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

6.The Registrar General,
High Court, Madras.

+1cc to Mr.S.KUMARADEVAN Advocate, S.R.No. 50

H.C.P.No.1961 of 2017

SS(CO)
TR(02/01/2018)

सत्यमेव जयते

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