

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:22.01.2018
CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. No.2253 of 2017

A.Maheswari ... Petitioner/Mother of the detenu
-vs-

1.State of Tamil Nadu, Rep.by
The Secretary to Government,
Home Prohibition and Excise Department
Secretariat, Chennai 600 009.

2.The Commissioner of Police,
The Commissioner Office,
Vepery, Chennai-600 007.

... 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 order of detention BCDGIISSSV NO.651/2017 dated, 25/10/2017 passed by the 2nd respondent and to quash the same and also to direct the detenu Thiru.Srinivasan @ Pakkoda, S/O.Ajish, who is presently detained in the Central Prison, Puzhal, Chennai to be produced before this Court and set at liberty.

For Petitioner: Mr.K.P.Anantha Krishna

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

Additional Public Prosecutor

ORDER

[Order of the Court by N.SATHISH KUMAR, J.]

The petitioner, who is the Mother of the detenu, namely, Srinivasan @ Pakkoda, son of Ajish, age 22 years, challenges the impugned order of detention, dated 25.10.2017 in BCDGIISSSV No.651/2017 detaining her son as "Goonda", as contemplated under Section 2(f) of the Tamil Nadu Prevention of dangerous activities of Boot leggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982).

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

4. A perusal of the Grounds of Detention would reveal that 5 adverse cases have been registered against the detenu and a ground case was registered against him in Cr.No.2476/2017 for the offences u/s.341, 294(b), 397, 336, 427 and 506(ii) IPC. Admittedly, bail application was pending in the ground case and no orders has been passed. Similarly, one of the adverse case in Cr.No.1991/2017, 1901/2017 and 1968/2017, no bail application was filed by the detenu. Therefore, the likelihood of coming out on bail is very remote ; whereas the statement of the Sponsoring Authority has been taken into consideration by the Detaining Authority that the relatives of the detenu are taking effective steps to file bail applications. When a bail application has not been moved, the logical conclusion would be that there is no likelihood of coming out on bail. Therefore, we are of the view that the finding of the Detaining Authority that there is likelihood of the detenu coming out on bail, is nothing but a clear non-application of mind and the Detaining Authority has not passed the order on merits. Though the detenu was arrested on 04.10.2017, the detention order was passed on 25.10.2017 with delay, which remains unexplained. Hence, on this sole ground, the detention order is liable to be set aside.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.651/2017 dated 25.10.2017, passed by the second respondent is set aside. The detenu, namely, Srinivasan @ Pakkoda, son of Ajish, aged about 22 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To:

1.The Secretary to Government,
Home Prohibition and Excise Department
Secretariat, Chennai 600 009.

2.The Commissioner of Police,
The Commissioner Office,
Vepery, Chennai-600 007.

3.The Superitendent, Central Prison, Puzhal

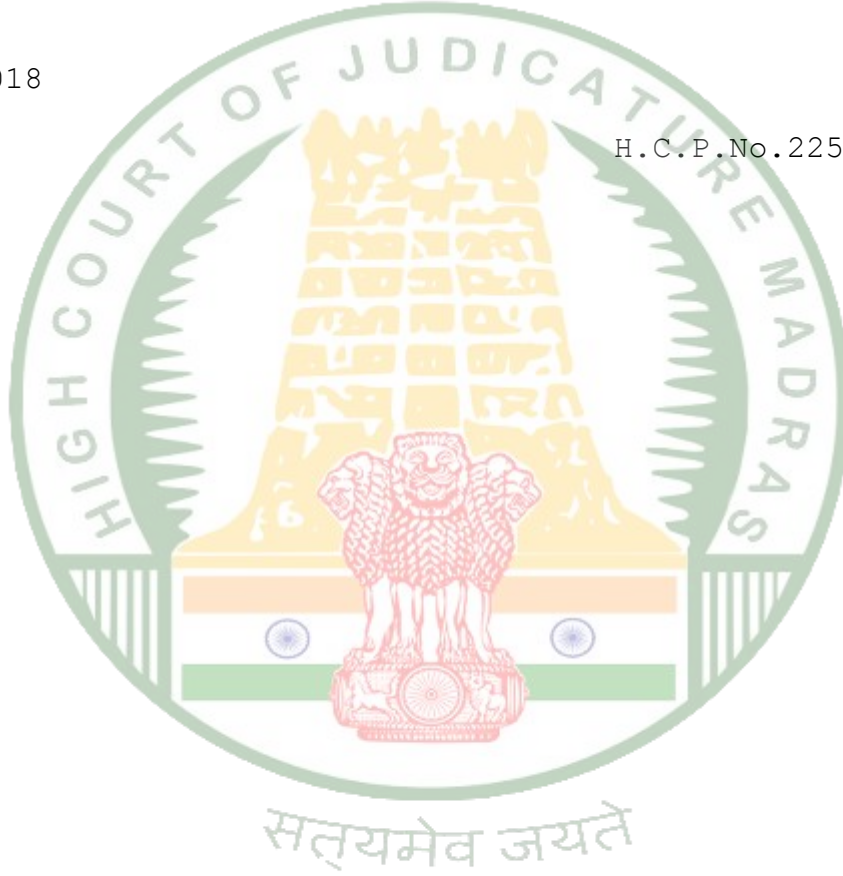
4.The Joint Secretary to Government
Public (Law & Order)
Fort St.George, Chennai-9

5.The Public Prosecutor
High Court, Madras.

+lcc to Mr.K.P.AnanthaKrishna, Advocate Sr.NO.4688

VGII(CO)
sm:21.2.2018

H.C.P.No.2253 of 2017



WEB COPY