



ITEM NO.17

COURT NO.15

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Cr1.) Nos.8706-8707/2024
(Arising out of impugned final judgment and orders dated 06-06-2024
in HCP No. 1163/2024 & 12-06-2024 in HCP No. 1163/2024 passed by
the High Court Of Judicature At Madras)

A. KAMALA

Petitioner(s)

VERSUS

THE STATE OF TAMIL NADU & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.143234/2024-EXEMPTION FROM FILING
C/C OF THE IMPUGNED JUDGMENT and IA No.143239/2024-PERMISSION TO
FILE LENGTHY LIST OF DATES)

WITH

T.P.(Cr1.) No. 597/2024 (II-C)
(FOR ADMISSION)

Date : 18-07-2024 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSHU DHULIA
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

For Petitioner(s) Mr. Siddhartha Dave, Sr. Adv.
Mr. Balaji Srinivasan, AOR
Mr. K Gowtham, Adv.
Mr. M.Mohamed Riyaz, Adv.
Ms. Harsha Tripathi, Adv.
Ms. Aakrti Priya, Adv.
Mrs. Lakshmi Rao, Adv.
Mr. Vishwaditya Sharma, Adv.
Mr. Aditya Nath, Adv.
Shreyas Ranjan, Adv.
Shiva Krishnamoorti, Adv.
Mr. Rohan Dewan, Adv.

For Respondent(s) Mr. Sidharth Luthra, Sr. Adv.
Mr. N. R. Elango, Sr. Adv.
Mr. Amit Anand Tiwari, Sr. Adv.
Mr. D.kumanan, AOR
Mr. Sheikh F. Kalia, Adv.
Mr. Chinmay Anand Panigrahi, Adv.
Ms. Devyani Gupta, Adv.
Ms. Tanvi Anand, Adv.

Mr. Kartikeye Dang, Adv.
Mr. Harsh Vardhan, Adv.
Mr. Shariq Ansari, Adv.

UPON hearing the counsel the Court made the following
O R D E R

T.P.(Cr1.) No. 597/2024

Learned senior counsel for the petitioner seeks permission of this Court to withdraw the present petition.

The present petition is, accordingly, dismissed as withdrawn along with pending application(s), if any.

SLP (Cr1.) Nos.8706-8707/2024

The petitioner before this Court is the mother of Detenue-Savukku Shankar (hereinafter called the "detenue"), who has been detained by the Police, Coimbatore City, under 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 (hereinafter referred to as "the Act") by an order dated 12.05.2024 issued by the Commissioner of Police, Greater Chennai, Tamil Nadu, under Section 3 of the Act. At the time when the detention order passed, the detenue was already in jail in connection with Crime No.123/2024 registered with Police Station Coimbatore City, Tamil Nadu for the offences punishable under Sections 294(b), 353, 509 of the Indian Penal Code, r/w 24 of the Act and Section 67 of the Information Technology Act.

The petitioner's mother challenged the order by means of a Habeas Corpus petition before a Division Bench of the Madras High

Court. Now, there was a difference of opinion between the two Learned Judges of the High Court. Whereas the Presiding Judge had quashed the detention order, his companion Judge thought it appropriate that this could not be done prior to a notice be given to the State, and hence directed for notice only, and the matter to be heard thereafter.

The case then went before a third Learned Judge of the High Court, where the third Judge while referring to the Rules of Court was of the opinion that in this case notice ought to have been given to the State before and order could be passed and consequently vide its order dated 06.06.2024, he, *inter-alia*, directed that the case be listed before the Division Bench dealing with *Habeas Corpus* petitions.

This Court had been informed that the matter has not been listed so far before the Madras High Court. Meanwhile, the petitioner has approached this Court in the present petition and at the same time has filed a transfer petition bearing T.P. (Cr1.)No.597/2024, which has been dismissed as withdrawn by this Court today.

Since the final opinion in the case has not been expressed by the Madras High Court and it is still seized with the matter, we do not think it would be appropriate for us to decide the case on its merit. It has also been fairly stated by Mr. Siddhartha Dave and Mr.Sidharth Luthra, the respective senior counsel for the rival parties, that they would be making a joint request before the

acting Chief Justice/Chief Justice of Madras High Court or before the appropriate Bench, as the case would be, to take up the matter as early as possible, for an expeditious disposal.

We also request the High Court to expedite the hearing in the matter considering that it relates to preventive detention. As we have referred above, we say nothing on the merits of the case since the High Court is seized with the matter.

All the same, we are definitely of the view that the delay which has presently been caused in the matter the petitioner was not at fault. For these reasons and also for the reasons that the preventive detention law under which the detenu has been detained also provides for a temporary release/interim release for persons in detention, under Section 15 of the Act.

Consequently, as an interim measure till a decision is taken on the merits of the preventive detention order under challenge before the High Court, we direct that the detenu be released on an interim bail forthwith, on two sureties of Rs. 50,000/- each, to be submitted before the High Court.

We make it very clear that this order is in relation to the preventive detention matter alone, which is presently before us. In case the detenu has been arrested in any other matter, as we have been informed at the Bar that he is, this will not have any effect on the said case which will be decided on its own merit.

However, we cannot leave before sounding a note of caution.

The learned Judge of the High Court in its order dated 06.06.2024 has made some observations on his brother Judge which should have been best avoided. It is always necessary for us to remember the distinction between judging and judgmental!

The present petitions shall stand disposed of on the aforesaid terms, along with pending application(s), if any.

(NIRMALA NEGI)
COURT MASTER (SH)

(RENU BALA GAMBHIR)
COURT MASTER (NSH)