

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2018

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.1013 of 2018

Shanthi

W/o.Alban (a) Albanraj

... Petitioner

-vs-

1.State of Tamil Nadu
represented by its
Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600009.

2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600007.

... Respondents

Writ petition under Article 226 of the Constitution of India filed praying for issuance of a Writ of Habeas Corpus calling for the records relating to petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order dated 24.04.2018 on the file of second respondent herein made in proceedings No.251/BCDFGISSSV/2018 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's husband namely Alban (a) Albanraj, S/o.Balu, aged 48 years before this Court and set the petitioner's husband at liberty from detention, now petitioner's husband detained at Central Prison II, Puzhal, Chennai - 600066.

For Petitioner : Mr.C.C.Chellappan

For Respondents : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

O R D E R

(Order of the Court was made by C.T.SELVAM, J)

Petitioner is the wife of the detenu Alban @ Albanraj S/o.Balu, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of the second respondent passed in No.251/BCDFGISSSV/2018 dated 24.04.2018.

2. The detenu came to adverse notice in the following cases:

Sl.No.	Police Station and Crime No.	Offences u/s.
1.	T-1 Ambattur Police Station, Crime No.3103/2016	380 IPC
2.	T-10 Thirumullaivoyal Police Station, Crime No.1559/2016	379 IPC
3.	T-2 Ambattur Estate Police Station, Crime No.200/2018	379 IPC
4.	T-1 Ambattur Police Station, Crime No.747/2018	392 IPC
5.	T-2 Ambattur Estate Police Station, Crime No.323/2018	379 IPC

The alleged ground case has been registered against the detenu in Crime No.324 of 2018 on the file of T-2 Ambattur Estate Police Station, for offences under Sections 341, 294(b), 336, 427, 392, 397 ad 506(ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Heard learned counsel for petitioner and learned Additional Public Prosecutor for respondent. Perused the materials on record.

4. The detaining authority while noticing that the detenu was remanded in Crime Nos.200 and 323 of 2018 on the file of T-2 Ambattur Estate Police Station and Crime Nos.324 and 747 of 2018 on the file of T-1 Ambattur Police Station and has moved bail application in all the cases and the same are pending, he had informed that in a similar case bail has been granted by the Principal Sessions Court, Chennai and therefore, there was a real possibility of his coming out on bail and if he comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of public order. This Court, under orders in H.C.P.No.1520 of 2017 dated 04.12.2017, has held thus:

'5(ii). ... The Detaining Authority, according to us, had wrongly entertained an apprehension that the detenu would be released on bail, by adverting to the fact that in similar cases, bail was granted. According to us, this is not have been taken as the basis to come to such a conclusion. In granting bail the Court inter alia takes into account several aspects most of which are case specific. Those would include the gravity of the offence, the ability to suborn witnesses and the likelihood of the accused fleeing from justice. The "similarity case" yardstick

applied by the Detaining Authority, based on the provisions of law under which an accused is booked, cannot be a satisfactory indicator

for coming to the conclusion that the likelihood of the detenu being enlarged on bail was real and imminent.'

We are in agreement with the above finding. For the said reason, the order under challenge would have to fall.

The Habeas Corpus Petition is allowed and the impugned detention order passed by the second respondent, detaining the detenu Alban @ Albanraj S/o.Balu in No.251/BCDFGISSSV/2018 dated 24.04.2018 is quashed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600009.
- 2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600007.
- 3.The Superintendent of Police,
Central Prison,
Puzhal, Chennai.
- 4.The Joint Secretary to Government,
Public (Law and order)
Fort St.George, Chennai -9
- 5.The Public Prosecutor
High Court, Chennai.

H.C.P.No.1013 of 2018

SV(CO)

rrs 25/10/2018