

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.1057 of 2018

Gracy
W/o.Kumar

... Petitioner

-Vs-

1.State of Tamil Nadu,
represented by the
Secretary, Home, Prohibition and
Excise Department,
Fort St.George, Chennai - 600009.

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

... 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 detention order in Memo No.321/BCDFGISSSV/2018 dated 11.05.2018 passed by the second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's son Karthick @ Palpam Karthick S/o.Kumar aged about 31 years, the detenu, now confined at Central Prison, Puzhal, Chennai, before this Court and set the petitioner's son Karthick @ Palpam Karthick S/o.Kumar, aged about 31 years, the detenu herein at liberty.

For Petitioner : Mr.T.V.Somasundaram

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 mother of detenu Karthick @ Palpam Karthick S/o.Kumar, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in No.321/BCDFGISSSV/2018 dated 11.05.2018.

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

Sl.No .	Police Station and Crime No.	Offences u/s.
1.	P-1 Pulianthope Police Station, Crime No.598/2017	341, 392, 294(b), 397, 336 and 506 (ii) IPC
2.	P-1 Pulianthope Police Station, Crime No.09/2018	341, 294(b), 323, 392 and 506(ii) IPC
3.	P-1 Pulianthope Police Station, Crime No.11/2018	341, 294(b), 323, 392, 397, 336 and 506(ii) IPC
4.	P-1 Pulianthope Police Station, Crime No.49/2018	147, 148, 341, 294 (b) and 506(ii) IPC
5.	P-1 Pulianthope Police Station, Crime No.117/2018	341, 294(b), 323, 392, 397, 336 and 506(ii) IPC r/w 34 IPC

The alleged ground case has been registered against the detenu in Crime No.250 of 2018 on the file of P-1 Pulianthope Police Station for offences under sections 341, 294(b), 392, 397, 336 and 506(ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Amidst several grounds raised, learned counsel for petitioner submits that the detaining authority while noticing that the detenu is in remand in four of the adverse cases and ground case and has moved bail application in the ground case and has not moved any bail application in such adverse cases, he had informed that the relatives of the detenu were taking efforts to move bail applications to take him out on bail in the adverse cases 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. Though the detaining authority has informed of an effort by the relatives to move bail petitions for the release of the detenu, there is no material to support such contention.

4. We have heard learned Additional Public Prosecutor on the above submissions and also perused the records.

5. We find that there absolutely is no material which would disclose the likelihood of the relatives of the detenu moving

bail petition on his behalf in respect of the adverse cases. Therefore, the non-application of mind and erroneous subjective satisfaction arrived at by the detaining authority is apparent.

Accordingly, the impugned detention order passed by second respondent, detaining the detenu, namely, Karthick @ Palpam Karthick S/o.Kumar, made in No.321/BCDFGISSSV/2018 dated 11.05.2018, is quashed and the Habeas Corpus Petition is allowed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

-s/d-

Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

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To

1.The Secretary, Home, Prohibition and
Excise Department,
Fort St.George, Chennai - 600009.

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

3.The Superintendent of 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, Madras.

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SV(CO)
SP(02/11/2018)