

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2018

CORAM:

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

H.C.P.No.1119 of 2018

Jayalakshmi
D/o.Ramachandran

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Petitioner

-Vs-

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

2.The Commissioner of Police/Detaining Authority,
City Police Office,
Huzur Road, Coimbatore City,
Coimbatore - 18.

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Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records relating to the petitioner's brother's detention under Tamil Nadu Act 14 of 1982 vide detention order dated 23.05.2018 on the file of second respondent herein made in proceedings Memo C.No.56/G/IS/2018, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's brother namely R.Mayakrishnan @ Ettaiah S/o.Ramachandran, aged 34 years, before this Court and set him at liberty from detention, now the petitioner's brother detained at Central Prison, Coimbatore.

For Petitioner : Mr.W.Camyles Gandhi
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 sister of the detenu R.Mayakrishnan @ Ettaiah S/o.Ramachandran, 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 C.No.56/G/IS/2018 dated 23.05.2018.

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

Sl.No	Police Station and Crime No.	Offences u/s.
1.	Madurai District, Sindupatty Police Station Crime No.16/2018	147, 148, 120 (B), 302, 201 and 34 IPC
2.	Coimbatore City, E-3 Saravanampatty Police Station Crime No.465/2018	294(b), 384 and 506(ii) IPC

The alleged ground case has been registered against the detenu in Crime No.641 of 2018 on the file of E-2 Peelamedu Police Station for offences under sections 392 r/w 397 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 noticed that no bail application has been moved in the second adverse case and the bail applications moved in the ground case in C.M.P.Nos.1244 and 1432 of 2018 on the file of Sessions Judge (Vacation), Coimbatore, were dismissed on 10.05.2018 and 17.05.2018. However, the detaining authority had informed that the steps were being taken to take him out on bail by filing another bail application and further, in a similar case, bail was granted by learned Principal District and Sessions Judge, Coimbatore in C.M.P.No.715 of 2016 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 to move further bail petition 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 that steps are being taken to take the detenu on bail by moving further application. Therefore, the non-application of mind and erroneous subjective satisfaction arrived at by the detaining authority is apparent.

Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order passed by the second respondent, detaining the detenu, namely, R.Mayakrishnan @ Ettaiah S/o.Ramachandran, in C.No.56/G/IS/2018 dated 23.05.2018, 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(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai - 600009.
- 2.The Commissioner of Police/Detaining Authority,
City Police Office,
Huzur Road, Coimbatore City,
Coimbatore - 18.
- 3.The Superintendent,
Central prison, Coimbatore.
- 4.The Joint Secretary to Government,
Public (Law & Order)
Fort Saint George,
Chennai-9
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1119 of 2018

SV(CO)
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