

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.10.2018

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

H.C.P. No.1125 of 2018

Indirani
W/o.Raja Manickam

... Petitioner/Mother of the Detenue

-Vs-

1.The State of Tamil Nadu
rep. By its Secretary to Government (Home)
Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2.The District Collector and
District Magistrate,
Thiruvannamalai District,
Thiruvannamalai.

... 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 made in D.O.No.17/2018-C2 dated 15/05/2018 passed by the District Collector and District Magistrate, Thiruvannamalai District, Thiruvannamalai, the 2nd respondent herein and set aside the same and direct the respondents to produce the detenu Govindan, S/O.Raja Manikam, who is presently detained in the Central Prison, Vellore before this Hon'ble court and set at liberty.

For Petitioner : Mr.R.Balakrishnan

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER
[Order of the Court made by C.T.SELVAM, J.]

Petitioner, who is the mother of the detenu, viz., Govindan, Son of Rajamanikam, aged 39 years, challenges the impugned order of detention, dated 15.05.2018 in D.O.No.17/2018-C2 detaining her son as "BOOTLEGGERS", as contemplated under Section 2(b) of the Tamil Nadu Prevention of dangerous activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral

Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982).

2. The detenu has come to adverse notice in the following cases:-

S. No	Cr.No. & Police Station	Offences
1.	Cr.No.675/2017 Tiruvannamalai Prohibition Enforcement Wing	4(1)(aa) r/w 4(1-A) (ii) TNP Act 1937 @ 4 (1)(aa) TNP Act, 1937
2.	Cr.No.989/2017 Thanipadi Police Station	4(1)(aa) r/w 4(1-A) (ii) TNP Act 1937 @ 4 (1)(aa) TNP Act, 1937
3.	Cr.No.129/2018 Thanipadi Police Station	4(1)(aa) TNP Act, 1937

The ground case has been registered against the detenu in Cr.No.280/2018 on the file of Inspector of Police, Thanipadi Police Station, for offences u/s 4(1) (i) r/w 4(1-A)(ii) Tamil Nadu Prohibition Act, 1937. The detention order has been passed by first respondent in No.D.O.No.17/2018-C2.

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

4. 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.

5. A perusal of the Grounds of Detention would reveal that a ground case came to be registered against the detenu in Cr.No.280/2018 for the offences u/s. 4(1) (i) r/w 4(1-A)(ii) Tamil Nadu Prohibition Act, 1937. Admittedly, the bail application filed by the detenu in the ground case before the learned District Sessions Judge, Tiruvannamalai, in CrI.MP.1475/2018 and the same was dismissed on 28.04.2018 and he has moved another bail application before this Court in CrI.O.P.No.12922/2018 and the same is pending. Therefore, the probability of release of the petitioner imminently does not arise. Hence, we are inclined to set aside the detention order. Though the detaining authority has made reliance on similar case, in which an accused was granted bail, the facts involved in those cases are different. The principle of similarity cannot be applied mechanically. Normally, bails are granted based on

the facts and circumstances of each case. Therefore, similar case plea, cannot be taken into consideration. Hence, there is no material to substantiate that there is real possibility of the detenu coming out on bail and the said order was passed without application of mind. Hence, on this ground, the detention order is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention passed by the 2nd respondent is set aside. The detenu is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

kmi

To:

- 1.The Secretary to Government (Home)
Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
- 2.The District Collector and
District Magistrate,
Thiruvannamalai District,
Thiruvannamalai.
- 3.The Superintendent,
Central Prison, Vellore.
- 4.The Joint Secretary,
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
- 5.The Public Prosecutor,
High Court, Madras.

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SR(CO)

rrs 16/11/2018