

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.10.2018
CORAM
THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.1153 of 2018

Amulu
W/o.Devaraj @ Kathikuthu Devaraj ... 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,
Greater Chennai,
Vepery, Chennai □ 600007. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records relating to the detention order in Memo No.299/BCDFGISSSV/2018 dated 07.05.2018 passed by the second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's husband Devaraj @ Kathikuthu Devaraj S/o.Vinayagamoorathi, aged about 26 years, the detenu, now confined at Central Prison, Puzhal, Chennai, before this Court and set the petitioner's husband at liberty.

For Petitioner : Mr.R.Muthukumar

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 Devaraj @ Kathikuthu Devaraj, who has been branded as "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under orders of second respondent passed in No.299/BCDFGISSSV/2018 dated 07.05.2018. Such order is under challenge herein.

2. The detenu came to adverse notice in Crime No.117 of 2018 on the file of V-5 Thirumangalam Police Station for offences u/s.457, 380 IPC @ 457, 380, 411 and 414 IPC. The alleged ground case has been registered against the detenu in Crime No.131 of 2018 on the file of V-5 Thirumangalam Police Station for offences u/s.294(b), 323, 336, 397, 427 and 506(ii) IPC.

3. We have heard learned counsel for petitioner and learned Additional Public Prosecutor for respondents. Perused the materials on record.

4. The detaining authority noticed that the detenu has moved a bail application in the ground case and bail was granted but since he could not execute sureties, he is still in prison and hence, there is every likelihood of detenu coming out on bail by offering proper sureties. The detaining authority has also noticed that in the adverse case, no bail application has been moved. However, the detaining authority had informed that the relatives of the detenu were taking efforts to move application to take him out on bail in the adverse case 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. Once an order of bail has been granted and is pending execution of sureties, then the detaining authority cannot interdict the order of this Court granting bail by passing the order of detention. Though the detaining authority has informed of an effort by the relatives to move bail petition for the release of the detenu, there is no material to support such contention. For the said reason, the order under challenge would have to fall.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by second respondent against the detenu Devaraj @ Kathikuthu Devaraj S/o.Vinayagamoorthi, in No.299/BCDFGISSSV/2018 dated 07.05.2018 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.

[C.T.S., J] [M.N.K., J]

11.10.2018

Index:yes/no

Internet:yes

gm

C.T.SELVAM, J
AND
M.NIRMAL KUMAR, J

gm

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

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

3.The Public Prosecutor,
High Court, Madras.

4.The Superintendent,
Central Prison,
Puzhal, Chennai.

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