

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2018

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

H.C.P.No.1182 of 2018

A.Manimegalai
W/o.Ashok Kumar

... Petitioner

-vs-

1.The State of Tamil Nadu
Rep. By The Secretary to Government,
Home, Prohibition and Excise Department
Secretariat, Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai City Police,
Vepery, Chennai - 600 007.

... 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 in connection with the order of detention passed by the second respondent on 24.05.2018 in Order No.349/BCDFGISSSV/2018 the detenu Ashok Kumar son of Senthur Pandian, Hindu, male aged about 37 years, who is now confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.G.Shivasurya

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

ORDER

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

Petitioner is the wife of the detenu Ashok Kumar S/o.Senthurpandian, 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.349/BCDFGISSSV/2018 dated 24.05.2018.

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

Sl.No.	Police Station and Crime No.	Offences u/s.
1.	M7 Manali New Town Police Station, Crime No.117/2018	448, 342 and 384 IPC
2.	M2 Madhavaram Milk Colony Police Station, Crime No.105/2018	147, 148, 384 & 506(ii) IPC r/w 25(1)(a) of Arms Act
3.	M3 Puzhal Police Station, Crime No.237/2018	294(b), 387, 506(ii) and 507 IPC

The alleged ground case has been registered against the detenu in Crime No.339 of 2018 on the file of H1 Washermenpet Police Station for offences under sections 147, 148, 341, 294(b), 323, 397, 336, 427 and 506(ii) IPC r/w 25(3)(i) Arms Act, 1959. 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 the

ground as well as in the adverse cases and has not moved any bail application, he had informed that the relatives of the detenu were taking efforts to move bail applications to take him out on bail 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 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 the likelihood of the relatives of the detenu moving bail petition on his behalf. 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 the second respondent, detaining the detenu, namely, Ashok Kumar S/o.Senthurpandian,

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

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made in No.349/BCDFGISSSV/2018 dated 24.05.2018, 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.

[C.T.S., J] [M.N.K., J]
24.10.2018

Index: Yes/No
Internet: Yes
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To

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

2.The Commissioner of Police,
Greater Chennai City Police,
Vepery, Chennai - 600 007.

3.The Superintendent of Police
Central Prison
Puzhal, Chennai.

4.The Public Prosecutor,
Madras High Court,
Chennai.

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