IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2018

CORAM:

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

H.C.P. No.1229 of 2018

V.Gomathi

... Petitioner

-Vs-

1.The Commissioner of Police,
The Office of the Commissioner of Police,
Greater Chennai, Egmore,
Chennai-600 008.

2.The Government of Tamil Nadu,
rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai-600 009. ... 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 BCDFGISSSV NO.286/2018 dated, 02/05/2018 passed by the 2nd respondent and to quash the same and also to direct the detenu Vignesh, S/O.Baskar, who is presently detained in the Central Prison, Puzhal, Chennai to be produced before this Hon`ble court and set at liberty.

For Petitioner : Mr.S.Mohanraj

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

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ORDER

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

Challenge is made to the order of detention passed by the first respondent vide proceedings in BCDFGISSSV No.286/2018 dated 02.05.2018, whereby by the detenu, by name, Vignesh, Son of Baskar, aged about 25 years, was ordered to be detained under the provisions of the Tamil Nadu Prevention of Dangerous

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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) branding him as a "GOONDA".

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

S.No.	Police Station & Crime No.	Section of Law
1.	E-3 Teynampet Police Station Crime No.220/2018	341, 147, 148, 323, 506(ii) IPC
2.	E-3 Teynampet Police Station Crime No.270/2018	294(b), 323, 506(ii) IPC

The ground case has been registered against the detenu in Cr.No.298/2018 on the file of Inspector of Police, E-3 Teynampet Police Station, for offences u/s 341, 323, 294(b), 336, 427, 392, 397 and 506(ii) IPC. The detention order has been passed by first respondent in BCDFGISSSV No.286/2018.

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

4. Though many grounds have been raised in the 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. Further, the Grounds of Detention would reveal that 2 adverse cases have been registered against the detenu and a ground case was registered against him in Cr.No.298/2018 for offences u/s. 341,323, 294(b), 336, 427, 392, 397 and 506(ii) IPC. Admittedly, the detenu has moved bail application in the ground case before the Principal Sessions Court, Chennai in Crl.M.P.No.7380/2018 and the same was granted and he is yet to offer sufficient sureties. Therefore, the probability of release of the detenu 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 detenue coming out on bail and the said order was passed without application of mind.

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6. In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV No.286/2018 dated 02.05.2018, passed by the first respondent is set aside. The detenu, namely, Vignesh, Son of Baskar, aged about 25 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To:

1.The Commissioner of Police,
The Office of the Commissioner of Police,
Greater Chennai, Egmore,
Chennai-600 008.

2.The Government of Tamil Nadu,
rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai-600 009.

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

4.The Joint Secretary,
Public (Law and order) Department,
Secretariat, Chennai - 600 009.

5.The Public Prosecutor,
High Court, Madras.

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KS(CO)
CSL/05.12.2018

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