

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.1249 of 2018

Sangeetha

.. Petitioner

Vs.

1. The Government of Tamil Nadu,
rep. by its Secretary,
Home, Prohibition and Excise (XVI) Department,
Secretariat, Fort St. George, Chennai-600 009.
2. The Commissioner of Police,
Greater Chennai,
Office of Commissioner of Police,
Vepery, Chennai.

.. Respondents

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 order of detention NO.256/BCDFGISSSV/2018 dated, 26/04/2018 passed by the 2nd respondent and to quash the same and also to direct the detenu Mani @ Osai Mani, S/O.Gnanamani, 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.K.Kannan

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.]

Challenge is made to the order of detention passed by the second respondent vide Proceedings in No.256/BCDFGISSSV/2018 dated 26.04.2018, whereby the detenu, by name, Mani @ Osai Mani, son of Gnanamani, aged about 22 years, was ordered to be

detained under the provisions 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 of 1982) branding him as a "GOONDA".

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

S.No.	Police Station & Crime No.	Sections of Law
1.	P-1 Pulianthope Police Station Crime No.665/2016	294(b), 341, 385, 506 (ii) IPC
2.	P-1 Pulianthope Police Station Crime No.2038/2016	147, 148, 323, 324, 307 IPC
3.	P-1 Pulianthope Police Station Crime No.180/2017	341, 294(b), 323, 392, 397, 506(ii) r/w 34 IPC
4.	P-1 Pulianthope Police Station Crime No.1505/2017	341, 294(b), 384, 506(i) IPC
5.	P-1 Pulianthope Police Station Crime No.1838/2017	341, 307 r/w 34 IPC @ 341, 302 r/w 34 IPC @ 147, 148, 341, 302 IPC r/w 149 & 109 120(b) IPC
6.	P-1 Pulianthope Police Station Crime No.179/2018	147, 148, 341, 294(b), 323, 394 IPC

The ground case has been registered against the detenu in Cr.No.180/2018 on the file of Inspector of Police, E-3 Teynampet Police Station, for offences u/s 341, 294(b), 392, 397, 336, 506 (ii) r/w 34 IPC. The detention order has been passed by second respondent in No.256/BCDFGISSSV/2018.

3. We have heard learned counsel for petitioner and the learned Additional Public Prosecutor appearing for respondents. We have also 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 6 adverse cases have been registered against the detenu and a ground case was registered against him in Cr.No.180/2018 for offences u/s 341, 294(b), 392, 397, 336, 506(ii) r/w 34 IPC. Admittedly, the detenu has moved bail application in the ground case before the Principal Sessions Court, Chennai in CrI.M.P.No.7179/2018 and the same is pending. He has moved a bail application in Crime No.179/2018 on the file of P-1 Pulianthope Police Station before the V Metropolitan Magistrate Court, Egmore, Chennai in CrI.M.P.No.1422/2018 and the bail 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 detenu coming out on bail and the said order was passed without application of mind.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.256/BCDFGIISSV/2018 dated 26.04.2018, passed by the second respondent is set aside. The detenu, namely, Mani @ Osai Mani, son of Gnanamani, aged about 22 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS V)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

To

- 1.The Secretary,
Home, Prohibition and Excise (XVI) Department,
Secretariat, Fort St. George, Chennai-600 009.
2. The Commissioner of Police,
Greater Chennai,
Office of Commissioner of Police,
Vepery, Chennai.

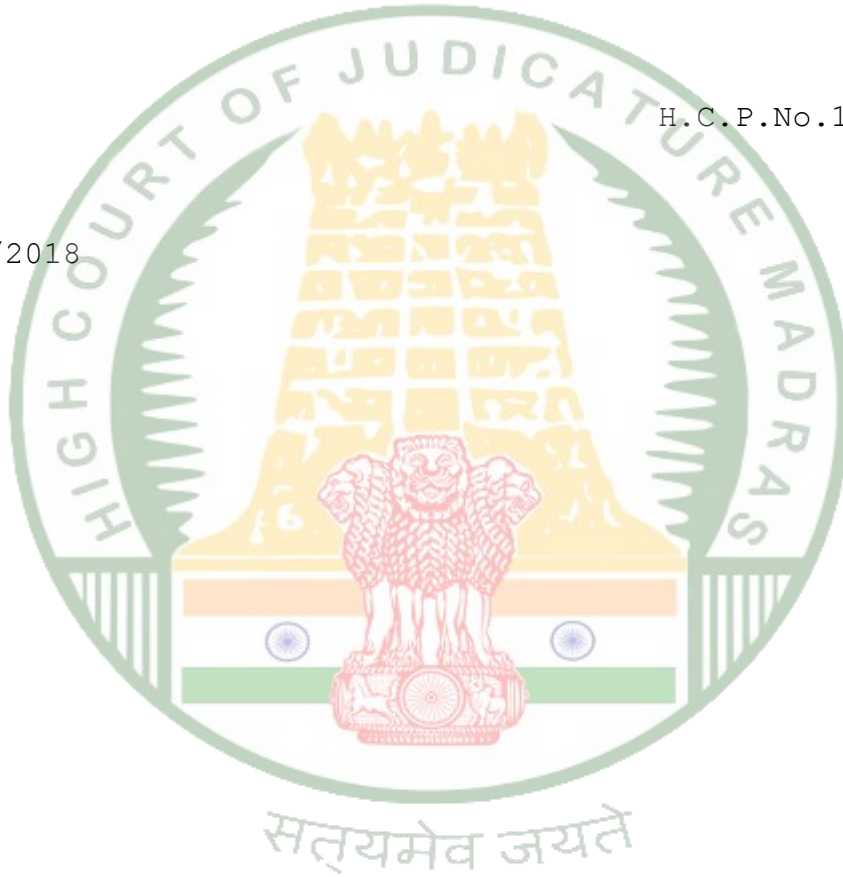
3.The Superintendent,
Central Prison,
Puzhal, Chennai.

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

5.The Public Prosecutor
High Court, Madras.

H.C.P.No.1249 of 2018

rsk[co]
srg 27/11/2018



WEB COPY