

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.10.2018

CORAM

THE HONOURABLE Mr.JUSTICE C.T.SELVAM

and

THE HONOURABLE Mr.JUSTICE M.NIRMAL KUMAR

H.C.P.No.1311 of 2018

Parimala

... Petitioner/Mother of Detenue

Versus

1. The State of Tamilnadu,
Rep.by its Secretary to Government,
Prohibition and Excise Department (Home)
Secretariat, Chennai - 600 009.

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

... Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of Constitution of India, to issue a Writ of Habeas Corpus calling for the records relating to the detenue's detention order passed by the second respondent dated 19.04.2018 in BCDFGISSSV No.240/2018 and set-aside the same and produce the detenue Thiru.Manimaran @ Jobida Mani, male aged about 24, S/o.Venkatesan, now detained in Central Prison-II, Puzhal, Chennai before this Hon'ble Court and set him at liberty

For Petitioner : Mr.P.Sundararajan

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

ORDER

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

Petitioner, who is the wife of the detenu, viz., Manimaran @ Jobida Mani, Son of Venkatesan, aged 24 years, challenges the impugned order of detention, dated 19.04.2018 in No.BCDFGISSSV/240/2018 detaining her husband as "GOONDA", as contemplated under Section 2(f) 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 case:-

S.No.	Police Station & Crime No.	Section of Law
1.	J-11, Kannaki Nagar Police Station Crime No.1557/2017	341, 294(b), 397, 506 (ii) IPC

The ground case has been registered against the detenu in Cr.No.118/2018 on the file of J-11, Kannaki Nagar Police Station, for offences u/s 147, 148, 341, 294(b), 307 and 506 (ii). The detention order has been passed by second respondent in No.BCDFGISSSV/240/2018.

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 1 adverse case has been registered against the detenu and a ground case came to be registered against him in Cr.No.118/2018 for the offences u/s. 147, 148, 341, 294(b), 307 and 506 (ii). Admittedly, the bail application filed by the detenu in the ground case before the learned Principal Sessions Judge, Kancheepuram, in CrI.M.P.No.1148/2018 and the same was dismissed on 04.04.2018. 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 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(CO)

//True copy//

Sub Assistant Registrar

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To:

1.The Principal Secretary to Government,
Home, Prohibition & Excise (XVI) Department,
Secretariat,
Chennai - 600 009.

2.The District Magistrate - cum- District Collector,
Greater Chennai City,
Vepery, Chennai - 600 007.

3. The Superintendent,
Central Prison, Puzhal.

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

5. The Public Prosecutor, High Court, Madras.

H.C.P.No.1311 of 2018

VG II(CO)

GMV (05/12/2018)

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