

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2018

CORAM:

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

H.C.P. No.1314 of 2018

Arun Priya
W/o.Vigneshwaran

... Petitioner

-Vs-

- 1.The State of Tamil Nadu
Rep. by its Secretary to Government
Home, Prohibition and Excise Department,
Fort St George, Chennai 600 009.
- 2.The District Collector & District Magistrate,
Kancheepuram District, Kancheepuram.

... 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.41/2018 dated, 12/06/2018 passed by the 2nd respondent and to quash the same and also to direct the detenu Vicky @ Vigneshwaran, M/A 28 years, S/O.Murugan, who is presently detained in the Central Prison, Vellore to be produced before this Hon'ble court and set at liberty.

For Petitioner : Mr.K.A.Mariappan

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

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ORDER

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

The petitioner, who is the wife of the detenu, namely, Vicky @ Vigneshwaran, son of Murugan, age 28 years, challenges the impugned order of detention, dated 12.06.2018 in B.C.D.F.G.I.S.S.S.V.No.41/2018 detaining her husband as "GOONDA", as contemplated under Section 2(f) of the Tamil Nadu

Prevention of dangerous activities of Boot leggers, 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.	Cr.No. & Police Station	Offences
1.	Cr.No.72/2018 Somangalam Police Station	147, 148, 302 IPC

The ground case has been registered against the detenu in Crime No.139/2018 on the file of Alagapuram Police Station for offences u/s 294(b), 324, 392, 397, 506(ii), 307 IPC r/w 3(i) of Tamil Nadu Property (Prevention of Damages & Loss) Act, 1992. The detention order has been passed by Second respondent in B.C.D.F.G.I.S.S.S.V.No.41/2018 on 12.06.2018.

3. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused 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. Further, he submits that the petitioner/wife of the detenu is pregnant.

5. Learned Additional Public Prosecutor, after verification, informs that the petitioner/wife of the detenu is pregnant.

6. The Grounds of Detention would reveal that one adverse case has been registered against the detenu and a ground case was registered against him in Cr.No.139/2018 for the offences u/s.294(b), 324, 392, 397, 506(ii), 307 IPC r/w 3(i) of Tamil Nadu Property (Prevention of Damages & Loss) Act, 1992. Admittedly, the detenu has moved bail application in the ground case and the same is pending before the Principal District Sessions Court, Chengalpattu in CrI.M.P.No.2185/2018. Therefore, the probability of release of the petitioner 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.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in B.C.D.F.G.I.S.S.S.V.No.41/2018 dated 12.06.2018, passed by the second respondent is set aside. The detenu, namely, Vicky @ Vigneshwaran, son of Murugan, aged about 28 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

kmi

To:

- 1.The Secretary to Government
Home, Prohibition and Excise Department,
Fort St George, Chennai 600 009.
- 2.The District Collector & District Magistrate,
Kancheepuram District, Kancheepuram.
- 3.The Joint Secretary
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
- 4.The Superintendent,
Central Prison, Vellore.
- 5.The Public Prosecutor
High Court, Madras.

H.C.P.No.1314 of 2018

nr 31/10/2018

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