

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.1357 of 2018

Kuppudoss

... Petitioner

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 in connection with the order of Detention passed by the second respondent dated 23.05.2018 in No.347/BCDFGISSSV/2018 and set aside the same and produce the detenu Praveenkumar @ Kaipillai, male aged about 25, Son of Kuppudoss, now detained in Central Prison - II, Puzhal, Chennai.

For Petitioner : Mr.Mohammed Aasif

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

ORDER

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

The petitioner, who is the father of the detenu, namely, Praveenkumar @ Kaipillai, son of Kuppudoss, aged 25 years, challenges the impugned order of detention, dated 23.05.2018 in 347/BCDFGISSSV/2018, dated 23.05.2018, detaining his son 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.	D6 Anna Square Police Station Cr No.558 of 2016	294 (b), 341, 427, 384 and 506 (ii) IPC
2.	D6 Anna Square Police Station Cr No.562 of 2016	294 (b), 341, 427, 336, 307 and 506 (ii) IPC
3.	D6 Anna Square Police Station Cr No.1018 of 2017	302 IPC

The ground case has been registered against the detenu in Crime No.65/2018 on the file of D4 Zambazaar Police Station for offences u/s 341, 294(b), 323, 427, 336, 392, 397, 506 (ii) IPC. The detention order has been passed by Second respondent in 347/BCDFGISSSV/2018, dated 23.05.2018

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.

5. 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.65/2018 for the offences u/s 341, 294(b), 323, 427, 336, 392, 397, 506 (ii) IPC. Admittedly, the detenu has moved bail application in the ground case and the same is pending before the learned Principal Judge, Chennai in Crl. M.P. No.8188 of 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.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in 347/BCDFGISSSV/2018, dated 23.05.2018, passed by the second respondent is set aside. The

detenu, namely, Praveenkumar @ Kaipillai, son of Kuppudoss aged about 25 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Prohibition and Excise Department (Home),
Secretariat, Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai City, Vepery,
Chennai - 600 007.
3. The Superintendent,
Central Prison - II, 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.1357 of 2018

SVN(CO)
EU(13/12/2018)

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