

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2018

CORAM:

THE HONOURABLE Mr.JUSTICE C.T.SELVAM
and
THE HONOURABLE Mrs.JUSTICE S.RAMATHILAGAM

H.C.P. No.1384 of 2018

Sagunthala

... Petitioner

-Vs-

1.The State rep. By its
The Secretary to the Government (Home),
Prohibition and Excise Department,
Secretariat, Fort St George, Chennai 600 009.

2.The Commissioner of Police,
Salem City,
Salem.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records of pertaining to the order of detention dated 29.06.2018 passed by the 2nd respondent in C.M.P.No.34/Goonda/Salem City/2018 and quash the same and produce my son, the detenu, Vignesh @ Mattutheeni @ Vigneshraj aged about 22 years, S/o Sarangapani detained at Central Prison, Salem, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.Dr.S.Manoharan

For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu, namely, Vignesh @ Mattutheeni @ Vigneshraj, Son of Sarangapani, age 22 years, challenges the impugned order of detention, dated 29.06.2018 in C.M.P.No.34/Goonda/Salem City/2018 detaining him 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.	Police Station & Crime No.	Section of Law
1.	Azhagapuram Police Station Crime No.176/2018	392, 397 IPC @ into 395, 397 and 506(ii) IPC
2.	Hasthampatty Police Station Crime No.200/2018	392 r/w 397 & 506(ii) IPC
3.	Hasthampatty Police Station Crime No.201/2018	392 r/w 397, 506(ii) IPC @ into 395, 397 and 506(ii) IPC

The ground case has been registered against the detenu in Crime No.256/2018 on the file of the Inspector of Police, Pallapatty Police Station for offences u/s 341, 392 r/w 397, 376(D), 506 (ii) IPC. The detention order has been passed by second respondent in C.M.P.No.34/Goonda/Salem City/2018 on 29.06.2018.

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.

5. The Grounds of Detention would reveal that 3 adverse cases have been registered against the detenu and a ground case was registered against him in Cr.No.256/2018 for the offences u/s.341, 392 r/w 397, 376(D), 506(ii) IPC. Admittedly, the detenu has not moved any bail application in the ground case. 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 C.M.P.No.34/Goonda/Salem City/2018 dated 29.06.2018, passed by the second respondent is set aside. The detenu, namely, Vignesh @ Mattutheeni @ Vigneshraj, Son of Sarangapani, aged about 22 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To:

- 1.The Secretary to the Government (Home),
Prohibition and Excise Department,
Secretariat, Fort St George, Chennai 600 009.
- 2.The Commissioner of Police,
Salem City,
Salem.
- 3.The Superintendent,
Central Prison,
Salem.
- 4.The Joint Secretary
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
- 5.The Public Prosecutor
High Court, Madras.

H.C.P.No.1384 of 2018

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nr 07/12/2018

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