

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.1394 of 2018

Babu @ 'Snake' Babu @ Isak

... Petitioner/Detenu

-Vs-

1.State of Tamil Nadu

Rep. By its Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St George, Chennai 600 009.

2.Inspector General of Police,
West Zone, Coimbatore

i/c Commissioner of Police/Detaining Authority
Tiruppur City.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, call for the records, relating to my detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 08.06.2018 on the file of the second respondent herein made in proceedings C.No.7/G/IS/2018, quash the same as illegal and consequently direct the respondents herein to produce me namely Babu @ 'Snake' Babu @ Isak, son of Ismayil, aged 35 years before this Hon'ble High Court and set me at liberty from detention, now I am detained at Central Prison, Coimbatore.

For Petitioner : Mr.M.N.Balakrishnan

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 detenu, namely, Babu @ 'Snake' Babu @ Isak, Son of Ismayil, age 35 years, challenges the impugned order of detention, dated 08.06.2018 in C.No.07/G/IS/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 cases:-

S.No.	Police Station & Crime No.	Section of Law
1.	B-13 Pothanur (Crime) Police Station Crime No.32/2015	457 and 380 IPC
2.	Tiruppur City 15- Velampalayam Police Station Crime No.35/2017	379 IPC
3.	Tiruppur City 15- Velampalayam Police Station Crime No.89/2018	457 and 380 IPC
4.	Tiruppur City 15- Velampalayam Police Station Crime No.203/2018	457 and 380 IPC

The ground case has been registered against the detenu in Crime No.210/2018 on the file of the Inspector of Police, Tiruppur City, 15-Velampalayam Police Station for offences u/s 392 r/w 397 and 506(ii) IPC. The detention order has been passed by second respondent in C.No.07/G/IS/2018 on 08.06.2018.

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 4 adverse cases have been registered against the detenu and a ground case was registered against him in Cr.No.210/2018 for the offences 392 r/w 397 and 506(ii) IPC. Admittedly, the detenu has moved bail application in the ground case and the same is pending before the Principal District and Sessions Court, Tiruppur in C.M.P.No.961/2018. 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 in C.No.07/G/IS/2018 dated 08.06.2018, passed by the second respondent is set aside. The detenu, namely, Babu @ 'Snake' Babu @ Isak, Son of Ismayil, aged about 35 years, is directed to be released forthwith unless his detention is required in connection with any other case.

s/d-
Assistant 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.Inspector General of Police,
West Zone, Coimbatore
i/c Commissioner of Police/Detaining Authority
Tiruppur City.
- 3.The Superintendent,
Central Prison, Coimbatore.
- 4.The Joint Secretary
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
- 5.The Public Prosecutor
High Court, Madras.

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VGII(CO)
SP(11/12/2018)