

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2018

CORAM:

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

H.C.P. No.1477 of 2018

M.Suseela

... Petitioner

-Vs-

1.State of Tamil Nadu Rep by

The Principal Secretary to Government,
Home Prohibition and Excise Department,
Fort St George, Chennai 600 009.

2. The District Magistrate and District Collector,
Salem District, Salem

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents to produce the petitioner's son viz., Pana @ Velmurugan, Son of Metha Ravi, aged about 25 years before this Court now confined in Central Prison, Salem and set him at liberty and to call for the records pertaining to the order of detention passed by the second respondent vide his proceedings in C.M.P.No.11/Goonda/C2/2018 dated 10.03.2018 and set aside the same.

For Petitioner : Mr.S.Senthilkumar

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

ORDER

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

The petitioner, who is the mother of the detenu, namely, Pana @ Velmurugan, son of Mettha Ravi @ Ravi, aged 25 years, challenges the impugned order of detention, dated 10.03.2018 in C.M.P.No.11/GOONDA/C2/2018 detaining her 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 came to adverse notice in the following cases:-

Sl.No .	Police Station and Crime No.	Sections of Law
1.	Mettur Police Station, Crime No.729/2015	341, 294(b), 387, 506(ii) I.P.C
2.	Thoothukudi Police Station, Crime No.70/2017	449,452,302,506(ii) I.P.C and Section 4 of TNPHW Act

The ground case has been registered against the detenu in Crime No.289/2017 on the file of the Inspector of Police, Mettur Police Station for offences under Sections 147, 148, 341, 307 and 302 of I.P.C @ 147, 148, 120(B), 341, 307, 302 I.P.C. The detention order has been passed by Second respondent in C.M.P.No.11/GOONDA/C2/2018 on 10.03.2018.

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 a ground case was registered against him in Crime No.289/2017 for the offences Sections 147, 148, 341, 307 and 302 of I.P.C @ 147, 148, 120(B), 341, 307, 302 I.P.C. Admittedly, the detenu has moved a bail application before the Principal Sessions Judge, Salem in Cr.M.P.No.491 of 2018 and the same was dismissed on 09.02.2018. Thereafter, another bail application has been filed before this Court in Cr.O.P.No.6676 of 2018 and the same is pending. 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 C.M.P.No.11/GOONDA/C2/2018 dated 10.03.2018, passed by the second respondent is set aside. The detenu, namely, Pana @ Velmurugan, son of Mettha Ravi @ Ravi, 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 IX)

//True Copy//

Sub Assistant Registrar

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To:

- 1.The Principal Secretary to Government,
State of Tamil Nadu, Home Prohibition and Excise Department,
Fort St George, Chennai 600 009.
2. The District Magistrate and District Collector,
Salem District, Salem
3. The Public Prosecutor, High Court, Madras
- 4.The Superintendent,
Central Prison,
Salem.
- 5.The Joint Secretary
Public(Law & Order) Department,
Secretariat, Chennai-9

सत्यमेव जयते

H.C.P. No.1477 of 2018

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