

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.1518 of 2018

Punitha

... Petitioner

-Vs-

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St George, Chennai 600 009.
- 2.The District Collector and District Magistrate,
Erode District,
Erode.
- 3.The Superintendent of Prison,
Central Prison,
Coimbatore.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records from the 2nd respondent in connection with order in CrI.M.P.No.12/Goonda/2018/C1 dated 13.07.2018 and quash the same and produce the petitioner's husband namely, Manikandan S/o Subramani aged 34 years now confined in Central Prison, Coimbatore under the Tamil Nadu Act 14 of 1982 before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.P.Pugalenth

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 wife of detenu, namely, Manikandan, Son of Subramani, age 34 years, challenges the impugned order of detention, dated 13.07.2018 in Cr.M.P.No.12/Goonda/2018/C1 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.	Gobichettipalayam Police station Crime No.857/2016	392 IPC
2.	Erode Taluk Police Station Crime No.222/2017	392 IPC
3.	Erode Taluk Police Station Crime No.223/2017	392 & 506(ii) IPC
4.	Anthiyur Police Station Crime No.97/2018	457 & 511 IPC
5.	Anthiyur Police Station Crime No.279/2018	380 IPC
6.	Anthiyur Police Station Crime No.280/2018	380 IPC
7.	Anthiyur Police Station Crime No.282/2018	454 & 380 IPC

The ground case has been registered against the detenu in Crime No.284/2018 on the file of the Sub-Inspector of Police, Anthiyur Police Station for offences u/s 397 & 506(ii) IPC. The detention order has been passed by second respondent in Cr.M.P.No.12/Goonda/2018/C1 on 13.07.2018.

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 7 adverse cases have been registered against the detenu and a ground case was registered against him in Cr.No.284/2018 for the offences u/s.397 & 506(ii) IPC. Admittedly, the detenu has not moved any

bail application in the ground case till date. 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 Cr.M.P.No.12/Goonda/2018/C1 dated 13.07.2018, passed by the second respondent is set aside. The detenu, namely, Manikandan, Son of Subramani, aged about 34 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-IV)

//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 District Collector and District Magistrate,
Erode District, Erode.
3. The Superintendent of Prison,
Central Prison, Coimbatore.
4. The Joint Secretary
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
5. The Public Prosecutor
High Court, Madras.

H.C.P.No.1518 of 2018

CNR (CO)

GN (06/12/2018)