

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2018

CORAM:

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

H.C.P. No.1548 of 2018

Amutha

... Petitioner/Mother of detenu

-Vs-

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

2.The Commissioner of Police,
Greater Chennai,
Chennai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records relating to my son's detention under Tamil nadu Act 14 of 1982 vide detention order, dated 26.06.2018 on the file of the second respondent herein made in proceedings No.447/BCDFGISSSV/2018, quash the same as illegal and consequently direct the respondents herein to produce the Petitioner's son namely Karthik, Son of Ravi, aged 25 years before this Hon'ble High Court and set the Petitioner's son at liberty from detention, now her son detained at Central Prison, Puzhal, Chennai - 600 066.

For Petitioner: Mr.C.C.Chellappan

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

ORDER

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

The petitioner, who is the mother of the detenu, namely, Karthik, Son of Ravi, age 25 years, challenges the impugned order of detention, dated 26.06.2018 in No.447/BCDFGISSSV/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 has come to adverse notice in the following cases:-

S.No.	Police Station & Crime No.	Section of Law
1.	K-3 Aminjikarai Police Station Crime No.1649/2017	341, 294(b), 324 and 506 (ii) IPC
2.	K-3 Aminjikarai Police Station Crime No.225/2018	147, 148, 341 and 302 IPC
3.	Vellavedu Police Station Thiruvallur District Crime No.281/2018	294(b) and 307 IPC

The ground case has been registered against the detenu in Crime No.226/2018 on the file of the Inspector of Police, K-3 Aminjikarai Police Station for offences u/s & 341, 294(b), 336, 397 and 506(ii) IPC r/w Sec.3 of TNPPDL Act 1992. The detention order has been passed by second respondent in No.447/BCDFGISSSV/2018 on 26.06.2018.

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 case have been registered against the detenu and a ground case was registered against him in Cr.No.226/2018 for the offences u/s.341, 294(b), 336, 397 & 506(ii) IPC r/w Sec.3 of TNPPDL Act 1992. Admittedly, the detenu has moved bail application in the ground case as also in the adverse case and the same are pending before the Principal Sessions Court, Chennai in CrI.M.P.Nos.9857/2018 and 9854/2018 respectively. 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 No.447/BCDFGISSSV/2018 dated 26.06.2018, passed by the second respondent is set aside. The detenu, namely, Karthik, Son of 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

//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,
Greater Chennai,
Chennai.
3. The Superintendent,
Central Prison, 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.1548 of 2018

nrI (CO)
srg (11/12/2018)