

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 12.11.2018
CORAM
THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MRS.JUSTICE S. RAMATHILAGAM

H.C.P.No.1561 of 2018

Dhivya Bharathi

.. Petitioner/Wife of the Detenu

Vs.

1.The State

Represented by its
Secretary to Government,
Home, Prohibition and Excise Department (Home),
Fort St. George, Chennai-600 009.

2.The Commissioner of Police,
Chennai City Police, Greater Chennai,
Commissioner Officer, Vepery,
Chennai-600007.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to call for the entire records connected with the Detention Order passed by the 2nd Respondent in No.527/BCDFGISSSV/2018 dated 13.07.2018 and quash the same and direct the respondents to produce the Petitioner namely Karthi @ Abdul Hameed, Son of Amavasai, aged about 35 years detained in Central Prison, Puzhal, Chennai before this Hon'ble court and set at liberty.

For Petitioner : Mr.Ilayaraja Kandasamy

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

सत्यमेव जयते

O R D E R

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

Challenge is made to the order of detention passed by the second respondent vide Proceedings in No.527/BCDFGISSSV/2018 dated 13.07.2018, whereby the detenu, by name, Karthi @ Abdul Hameed, son of Amavasai, aged about 35 years, was ordered to be detained under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a "GOONDA OFFENDER".

2. The detenu has come to adverse notice in the following case:-

S.No.	Police Station & Crime No.	Section of Law
1.	Guduvanchery Police Station Cr.No. 696/2017	457, 380 IPC
2.	T-4 Maduravoyal Police Station Cr.No. 1341/2017	457, 380, 511 IPC @ 457, 380 IPC
3.	T-4 Maduravoyal Police Station Cr.No. 401/2018	380 IPC
4.	T-4 Maduravoyal Police Station Cr.No. 450/2018	457, 380 IPC
5.	T-4 Maduravoyal Police Station Cr.No. 517/2018	457, 380, 511 IPC @ 457, 380 IPC
6.	T-4 Maduravoyal Police Station Cr.No. 627/2018	457, 380 IPC

The ground case has been registered against the detenu in Cr.No.648/2018 on the file of T-4 Maduravoyal Police Station for offence u/s 341, 294(b), 336, 427, 397 and 506(ii) IPC. The detention order has been passed by second respondent in No.527/BCDFGISSSV/2018.

3. We have heard learned counsel for petitioner and the learned Additional Public Prosecutor appearing for respondents. We have also perused the records produced by the Detaining Authority.

4. Though many grounds have been raised in the 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. Further, the Grounds of Detention would reveal that a ground case was registered against the detenu in Cr.No.648/2018 for offences u/s 341, 294(b), 336, 427, 397 and 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 No.527/BCDFGISSSV/2018 dated 13.07.2018, passed by the second respondent is set aside. The detenu, namely, Karthi @ Abdul Hameed, son of Amavasai, aged about 35 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 Government,
Home, Prohibition and Excise Department (Home),
Fort St. George, Chennai-600 009.'
- 2.The Commissioner of Police,
Chennai City Police, Greater Chennai,
Commissioner Officer, Vepery,
Chennai-600007.
- 3.The Superintendent,
Central Prison, Puzhal, Chennai.
(In duplicate for communication to Detenu)
- 4.The Joint Secretary,
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
- 5.The Public Prosecutor
High Court, Madras.

H.C.P.No.1561 of 2018

RV(CO)

rrs 14/12/2018