

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2018

CORAM:

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

H.C.P. No.1612 of 2018

Mathi @ Mathiyalagan

... Petitioner/himself as the detenu
-Vs-

1.The State of Tamil Nadu

Rep. By the Secretary to the Government,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai - 600 009.

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

...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 the detention order passed by the second respondent pertaining to the order made in Cr.M.P.No.08/GOONDA/2018/C1 dated 22.06.2018 in detain the detenu under 2(b) of Tamil Nadu Act 14 of 1982, as a GOONDA and quash the same and direct the respondent to produce the detenu Mathi @ Mathiyalagan S/o. Ponnusamy (Late), aged about 56 years, who is detained at Central Prison, Coimbatore before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.A.Raghu Raman

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 detenu, namely, Mathi alias Mathiyalagan, Son of (Late) Ponnusamy, age 56 years, challenges the impugned order of detention, dated 22.06.2018 in Cr.M.P.No.08/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.	Erode Town Police Station Crime No.817/2016	387 IPC
2.	Erode Town Police Station Crime No.296/2017	387 IPC
3.	Karungalpalayam Police Station Crime No.49/2017	8(c), 20(b) (ii) (A) of Narcotic Drugs and Psychotropic Substances Act, 1985
4.	Karungalpalayam Police Station Crime No.440/2017	8(c), 20(b) (ii) (A) of Narcotic Drugs and Psychotropic Substances Act, 1985
5.	Karungalpalayam Police Station Crime No.19/2018	8(c), 20(b) (ii) (A) of Narcotic Drugs and Psychotropic Substances Act, 1985

The ground case has been registered against the detenu in Crime No.282/2018 on the file of the Sub-Inspector of Police, Karungalpalayam Police Station for offences u/s 387 IPC. The detention order has been passed by second respondent in Memo Cr.M.P.No.08/Goonda/2018/C1 on 22.06.2018.

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 5 adverse cases have been registered against the detenu and a ground case was registered against him in Cr.No.282/2018 for the offences u/s. 387 IPC. Admittedly, the detenu has not moved any bail application in the ground case in Crime No.282/2018. 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 Memo Cr.M.P.No.08/Goonda/2018/C1 dated 22.06.2018, passed by the second respondent is set aside. The detenu, namely, Mathi alias Mathiyalagan, Son of (Late) Ponnusamy, aged about 56 years, is directed to be released forthwith unless his detention is required in connection with any other case.

kkn

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To:

- 1.The Secretary to the Government,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Erode District, Erode.
- 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.

H.C.P.No.1612 of 2018

ASK(21/12/2018)

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