

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2018

CORAM:

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

H.C.P. No.1617 of 2018

Chitra

... Petitioner

-Vs-

1.Staet of Tamil Nadu

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

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

...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 husband detention under Tamil Nact 14 of 1982 vide detention order, dated 25.06.2018 on the file of the second respondent herein made in proceeding D.No.25/2018-C2, quash the same as illegal and consequently direct the respondents herein to produce my husband Bothu @ Manikandan before this Hon'ble High Court and set him at liberty from detention, now he is detained at Central Prison, Vellore.

For Petitioner : Mr.B.Mahendra Naidu

For Respondents: Mr.R.Prathap Kumar

Additional Public Prosecutor

ORDER

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

Petitioner, who is the wife of the detenu, viz., Bothu @ Manikandan, Son of Venkatesan, aged 36 years, challenges the impugned order of detention, dated 25.06.2018 in D.O.No.25/2018-C2 detaining her husband as "GOONDA", as contemplated under Section 2(f) 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 14/1982).

2.The ground case has been registered against the detenu in Cr.No.363/2018 on the file of Sub-Inspector of Police, Polur Police Station for offences u/s 147, 148, 341, 294(b), 324, 307 & 302 IPC and sec 3 of Tamil Nadu Property (Prevention of Damages & Loss) Act, 1992. The detention order has been passed by second respondent in D.O.No.25/2018-C2 on 25.06.2018.

3. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have perused the counter affidavit as also 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. A perusal of the Grounds of Detention would reveal that a ground case came to be registered against him in Cr.No.363/2018 for the offences u/s. 147, 148, 341, 294(b), 324, 307 & 302 IPC and sec 3 of Tamil Nadu Property (Prevention of Damages & Loss) Act, 1992. Admittedly, the bail application filed by the detenu in the ground case before the Hon'ble District Sessions Court, Tiruvannamalai, in Crl.M.P.No.2083/2018 and the same was dismissed on 14.06.2018. 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 D.O.No.25/2018-C2, dated 25.06.2018, passed by the second respondent is set aside. The detenu, namely Bothu @ Manikandan, Son of Venkatesan, aged 36 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

kkn

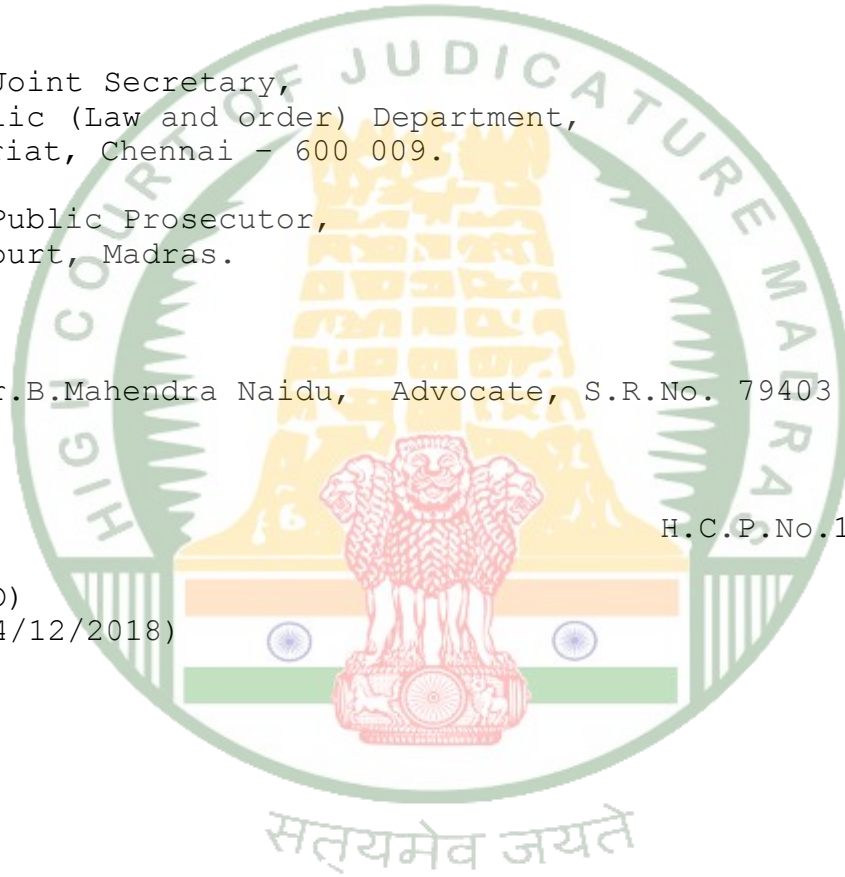
To:

1. The Secretary,  
Home, Prohibition and Excise Department,  
Fort St. George, Chennai-600 009.
- 2.The District Collector and District Magistrate,  
Tiruvannamalai, Tiruvannamalai District.
3. The Superintendent,  
Central Prison,  
Vellore.
4. The Joint Secretary,  
Public (Law and order) Department,  
Secretariat, Chennai - 600 009.
5. The Public Prosecutor,  
High Court, Madras.

+1cc to Mr.B.Mahendra Naidu, Advocate, S.R.No. 79403

H.C.P.No.1617 of 2018

KK (CO)  
GN (14/12/2018)



WEB COPY