

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.No.2421 of 2017

Latha

... Petitioner

-Vs-

1. The State of Tamil Nadu,
rep. by its Secretary,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
2. The Commissioner of Police,
Chennai Police,
Vepery, Chennai-600 007.

... 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 order of detention 759/BCDFIGSSV/2017 dated, 06.12.2017 passed by the 2nd respondent and to quash the same and also to direct the detenu Thiru.Balachandhar, S/o.Vishwanathan, who is presently detained in the Central Prison, Puzhal, Chennai to be produced before this Hon'ble court and set at liberty.

For Petitioner : Mr.V.Parthiban
for Mr.M.Rajavelu

For Respondents: Mr.V.M.R.Rajentran
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, Balachandhar, son of Vishwanathan, age 29 years, challenges the impugned order of detention, dated 06.12.2017 in No.759/BCDFIGISSV/2017 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. 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.

3. 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.

4. A perusal of 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.976/2017 for the offences u/s.153(A), 182, 295(A), 384 and 506(ii) IPC. Though bail applications of the petitioner in the similar cases were dismissed on 20.11.2017 and 28.11.2017, he has moved another bail application and the same is pending. Therefore, the probability of release of the petitioner imminently does not arise. Bails are normally granted based on the facts and circumstances of each case. The similarity theory cannot be taken as a yardstick while passing the Detention Order. All these facts clearly indicate the non-application of mind by the Detaining Authority. Hence, we are inclined to set aside the detention order.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.759/BCDFGISSSV/2017 dated 06.12.2017, passed by the second respondent is set aside. The detenu, namely, Balachandhar, son of Vishwanathan, aged about 29 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

kmi

To

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

2. The Commissioner of Police,
The Commissioner Office,
Vepery, Chennai-600 007.

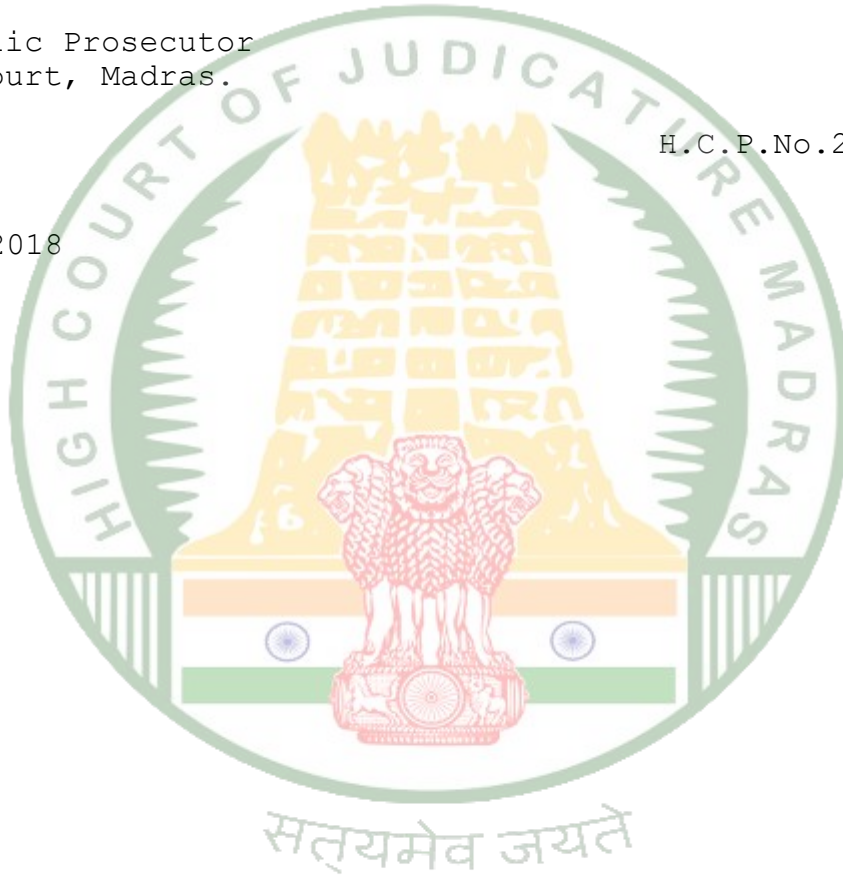
3.The Superintendent to Govt,
Central Prison, Puzhal,
Chennai.(In duplicate for communication to detenue)

4.The Joint Secretary to Govt,
Public(Law & Order)
Fort Saint George,Chennai-9

5.The Public Prosecutor
High Court, Madras.

H.C.P.No.2421 of 2017

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