

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2018

CORAM:

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

H.C.P. No. 1717 of 2018

Sasikala

... Petitioner/Daughter of Detenu

-Vs-

1. The Secretary to the Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St George, Chennai 600 009.
2. The District Collector,
and District Magistrate
Villupuram District, Villupuram. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents to produce the petitioner father by name Selvam S/o.Elumalai, aged about 40 years before this Hon'ble Court now confined in Central Prison, Cuddalore and set him at liberty and to call for the records pertaining to the order of detention passed in No. C2/19426/2018 dated 10.07.2018 passed by the 2nd respondent and set aside the same.

For Petitioner : Mr.M.Subash
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 daughter of the detenu, namely, Selvam, Son of Elumalai, age 40 years, challenges the impugned order of detention, dated 10.07.2018 in Order No.C2/19426/2018 detaining her father as "BOOTLEGGERS", as contemplated under Section 2(b) of the Tamil Nadu Act 14 of 1982 Prevention of dangerous activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982).

2. The ground case has been registered against the detenu in Crime No. 219 /2018 on the file of the Enforcement Wing, Ulundurpet for offences u/s 4(1)(i), 4(1)(aaa), 4(1-A) Tamil Nadu Prohibition Act 1937. The detention order has been passed by Second respondent in Order No.C2/19426/2018 on 10.07.2018.

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 a ground case was registered against him in Crime No. 219 /2018 for the offences u/s. 4(1)(i), 4(1)(aaa), 4(1-A) Tamil Nadu Prohibition Act 1937. Admittedly, the detenu has moved bail application in the ground case and the same is pending before the learned Sessions Judge, Villupuram, in CrI.M.P.No.3904/2018. 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 Order No.C2/19426/2018 dated 10.07.2018, passed by the second respondent is set aside. The detenu, namely, Selvam, Son of Elumalai, aged about 40 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

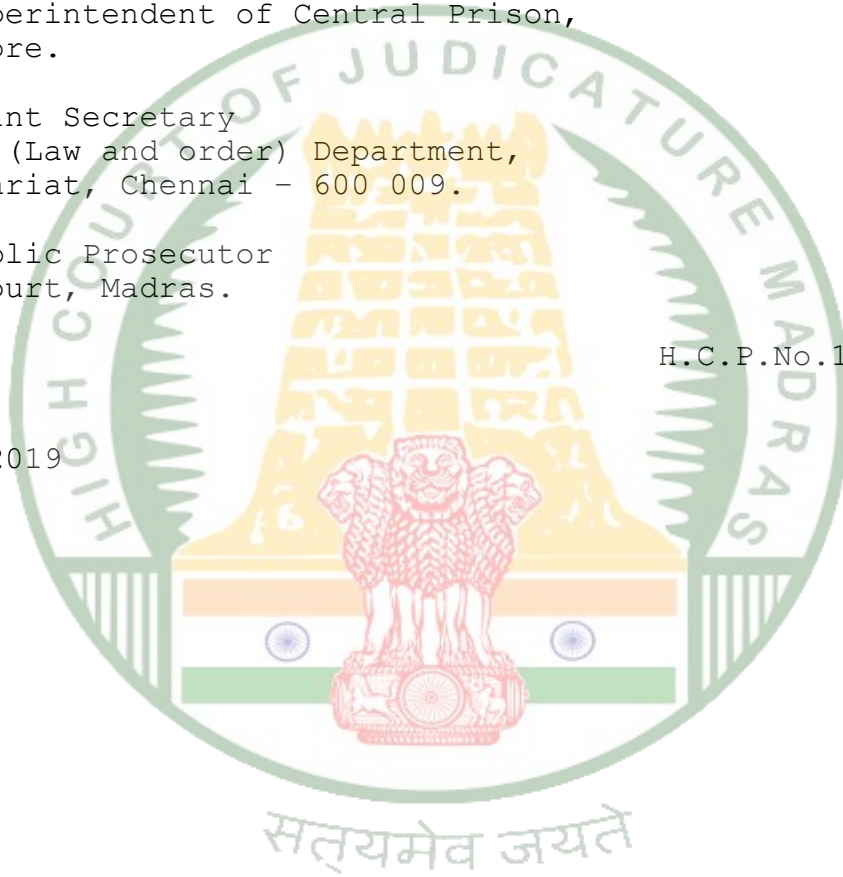
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To:

1. The Secretary to the Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St George, Chennai 600 009.
2. The District Collector,
and District Magistrate
Villupuram District,
Villupuram.
3. The Superintendent of Central Prison,
Cuddalore.
4. The Joint Secretary
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
5. The Public Prosecutor
High Court, Madras.

H.C.P.No.1717 of 2018

GJII(CO)
CS/28/01/2019



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