

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.1719 of 2018

Vanitha

... Petitioner

-Vs-

1.The State of Tamilnadu,
rep. by its Secretary to Government
Home, Prohibition and Excise Department,
Secretariat, Chennai - 9.

2.The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai - 7.

3.The Superintendent,
Central Prison,
Puzhal - II, Chennai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records of the detention made in Memo No.551/BCDFGISSSV/2018 dated 19.07.2018 passed by the Commissioner of Police, Greater Chennai Police, Vepery, Chennai - 7 the second respondent herein and set aside the same and direct the respondents to produce the detenu before this Hon'ble court and set the detenu Nagaraj, son of Rajendran, aged 33 years now confined in Central Prison, Puzhal II, Chennai at liberty.

For Petitioner : Mr.R.Balakrishnan

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., Nagaraj, Son of Rajendran, aged 33 years, challenges the impugned order

of detention, dated 19.07.2018 in No.551/BCDFGISSSV/2018 detaining him 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 detenu has come to adverse notice in the following cases:-

S.No.	Police Station & Crime No.	Section of Law
1.	P-2 Otteri Police Station Crime No.262/2018	341, 294(b), 324, 307 and 506(ii) IPC

The ground case has been registered against the detenu in Cr.No.226/2018 on the file of the Inspector of Police in G-5 Secretariat Colony Police Station for offences u/s 341, 294(b), 336, 427, 397 and 506(ii) IPC. The detention order has been passed by second respondent in No.551/BCDFGISSSV/2018 dated 19.07.2018.

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 1 adverse case has been registered against the detenu and a ground case came to be registered against him in Cr.No.226/2018 for the offences u/s. 341, 294(b), 336, 427 397 and 506(ii) IPC. Admittedly, the bail application filed by the detenu in the ground case before the Court of Principal Sessions Judge, Chennai, in CrI.M.P.No.11252/2018 and the bail was dismissed on 17.07.2018. 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 No.551/BCDFGISSSV/2018, dated 19.07.2018, passed by the second respondent is set aside. The detenu, namely Nagaraj, Son of Rajendran, aged 33 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To:

- 1.The Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 9.
- 2.The Commissioner of Police,
Greater Chennai Police, Vepery, Chennai - 7.
- 3.The Superintendent,
Central Prison, Puzhal - II, Chennai.
- 4.The Joint Secretary,
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
- 5.The Public Prosecutor,
High Court, Madras.

सत्यमेव जयते

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