IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.546 of 2018

Manimala
W/o.Veechukumar @ Kumar ... Petitioner/Wife of the detenue

-Vs-

1.Government of Tamil Nadu
Rep. by its Secretary,
Home, Prohibition and Excise (XVI) Department
Fort St. George
Chennai- 600 009.

2.The Commissioner of Police
Salem City. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records in C.M.P.No.8/Goonda/Salem City/2018 dated 19.02.2018 on the file of the 2nd respondent herein and set aside the same and direct the respondents herein to produce the body of the petitioner's husband detenu Thiru Veechubkumar @ Kumar, aged 45 years, Son of Muthusamy, now confined at Central Prison, Salem before this Court and set him at liberty.

For Petitioner : Mr.R.Subhadra Devi

For Respondents: Mr.M.Mohamed Riyaz
Additional Public Prosecutor

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

Petitioner is the wife of the detenu viz., Veechukumar @ Kumar S/o.Muthusamy, who has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under order of the second respondent passed in C.M.P.No.8/Goonda/Salem City/2018 dated 19.02.2018.

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2. The detenu came to adverse notice in the following cases:

Sl.No.	Police Station and Crime No.	Sections of Law
1.	Annadanapatty Police Station, Crime No.351/2015	147, 148, 294(b), 324, 307, 506(ii) IPC @ 147, 148, 294 (b), 324, 307, 506(ii), 302 IPC r/w 3(2)(v) of SC/ST Prevention of Atrocities Act
2.	Annadanapatty Police Station, Crime No.534/2017	379 IPC

The alleged ground case has been registered against the detenu in Crime No.742/2017 on the file of Annadanapatty Police Station for offences under sections 341, 392, 397 and 506(ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Learned counsel for petitioner submits that despite the admitted position that the detenu has not filed any bail application in the ground case in Crime No.742/2017 on the file of Annadanapatty Police Station for offences under sections 341, 392, 397 and 506(ii) IPC, the detaining authority has informed that the relatives of the detenu were taking efforts to move application to take him out on bail and therefore, there was a real possibility of his coming out on bail and if he comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of public order. Though the detaining authority has informed of an effort by the relatives to move bail petition for the release of the detenu, there is no material to support such contention.

4. We have heard learned Additional Public Prosecutor on the above submissions and also perused the records.

5. Finding that the subjective satisfaction arrived by the detaining authority is erroneous and for the reasons put forth by learned counsel for the petitioner, this Court would allow the present petition.

Accordingly, the impugned detention order passed by the second respondent, detaining the detenu, namely, Veechukumar @ Kumar S/o.Muthusamy, made in C.M.P.No.8/Goonda/Salem City/2018 dated 19.02.2018, is quashed and the Habeas Corpus Petition is

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allowed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

-s/d-
Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

gm
To

1.The Secretary
Government of India
Home, Prohibition and Excise (XVI) Department
Fort St.George
Chennai- 600 009.

2.The Commissioner of Police
Salem City.

3.The Public Prosecutor,
High Court, Madras.

3. The Superintendent
Central Prison, Puzhal Chennai.

4. The Joint Secretary to Government
Public(Law and order)
Fort. St. George
Chennai 9.

5.The Public Prosecutor,
High Court, Madras.

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