

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P. No.1770 of 2018

Karthik @ Dori Karthik

... Petitioner

-Vs-

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

2. The Commissioner of Police,
Chennai City Police, Greater Chennai,
Commissioner Office, 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 in No.580/BCDFGISSSV/2018, dated 25.07.2018 on the file of the second respondent herein and set aside the same as illegal and produce the detenu Karthik @ Dori Karthik, Son of Thiyagarajan, aged about 23 years, who is confined at Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.Ilayaraja Kandasamy

For Respondents: Mr.R.Prathap Kumar

Additional Public Prosecutor

ORDER

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

Petitioner namely, Karthik @ Dori Karthik, aged about 23 years, Son of Thiyagarajan, is the detenu and he challenges the impugned order of detention, dated 25.07.2018 in Memo No.580/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.	R-9 Valasaravakam Police Station Cr.No.997 of 2017	454 and 380 IPC
2.	R-9 Valasaravakam Police Station Cr.No.1063 of 2017	379 IPC
3.	R-9 Valasaravakam Police Station Cr.No.1090 of 2017	379 IPC
4.	R-9 Valasaravakam Police Station Cr.No.1146 of 2017	457 and 511 IPC
5.	R-10 M.G.R. Nagar Police Station Cr.No.1679 of 2017	341, 294(b), 384 and 506(ii) IPC
6.	R-9 Valasaravakam Police Station Cr.No.1358 of 2017	341, 294(b), 392, 427, 336, 307 and 506 (ii) IPC
7.	R-9 Valasaravakam Police Station Cr.No.80 of 2018	379 IPC
8.	R-9 Valasaravakam Police Station Cr.No.149 of 2018	379 IPC

The ground case has been registered against the detenu in Cr.No.287/2018 on the file of R-10 MGR Nagar Police Station for offences u/s 341, 294(b), 384 and 506(ii) IPC.

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. A perusal of the Grounds of Detention would reveal that the ground case came to be registered against the detenu in Cr.No.287/2018 for offences u/s 341, 294(b), 384 and 506(ii) IPC. Admittedly, the bail application filed by the detenu in the ground case before the learned XXIII Metropolitan Magistrate, Saidapet, Chennai, in CrI.M.P.No.1745/2018 was dismissed on 06.07.2018. 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 Memo No.580/BCDFGISSSV/2018, dated 25.07.2018 passed by the second respondent is set aside. The detenu, namely, Karthik @ Dori Karthik, Son of Thiagarajan, aged about 23 years, is directed to be released forthwith unless his detention is required in connection with any other case.

-s/d-
Deputy Registrar

True Copy

Sub-Assistant Registrar

Jrl
To:

1. The Secretary to Government,
The State of Tamil Nadu,
Department of Prohibition and Excise (Home),
Fort St. George,
Chennai - 600 009.
2. The Commissioner of Police,
Chennai City Police, Greater Chennai,
Commissioner Office, Vepery,
Chennai - 600 007.
3. The Superintendent of Central Prison, Puzhal, Chennai 66.
4. The Joint Secretary to Government
Public(law and order)
Fort. St. George
Chennai 9.
5. The Public Prosecutor,
High Court, Madras.

SP(04/01/2019)

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