

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2018

CORAM

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

H.C.P.No.578 of 2018

R.Lakshmi .. Petitioner/
wife of the detenu

Vs.

- 1.The State of Tamil Nadu
rep. by the Secretary to Government,
Home, Prohibition and Excise Department,
Fort St., George, Chennai-9.
- 2.The District Collector and District Magistrate,
Salem District.
Salem.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records relating to the order of detention C.M.P.NO.13/GOONDA/C2/2018 dated, 13/03/2018 passed by the 2nd respondent and to quash the same and also to direct the detenu Ragu@Mettur Ragu, S/O.Murugesan, who is presently detained in the Central Prison, Salem to be produced before this Hon'ble court and set at liberty.

For Petitioner : Mr.Dr.S.Manoharan
For Respondents : Mr..M.Mohamed Riyaz,
Additional Public Prosecutor.

O R D E R

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

Challenge is made to the order of detention passed by the second respondent vide Proceedings in C.M.P.No.13/GOONDA/C2/2018 dated 13.03.2018, whereby the detenu, by name, Ragu @ Mettur Ragu, son of Murugesan, aged about 38 years, was ordered to be detained under the provisions 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 of 1982) branding him as a "GOONDA".

2. The detenu has come to adverse notice in the following case:-

S.No	Cr.No. & Police Station	Offences
1.	Cr.No.626/2017 Bhavani Police Station, Erode District.	365, 392 and 394 IPC
2.	Cr.No.507/2017 Chennimalai Police Station, Erode District	323, 324, 342, 364(A) and 392 r/w 397 IPC
3.	Cr.No.866/2017 Gobichettipalayam Police Station, Erode District.	342, 395 r/w 397 IPC
4.	Cr.No.636/2017 Thiruchengode Rural Police Station, Namakkal District.	342, 392, 397 IPC

The ground case has been registered against the detenu in Cr.No.280 of 2017 on the file of Inspector of Police, Karumalaikoodal Police Station for offences u/s 341, 393, 398 r/w 506(ii) IPC. The detention order has been passed by Second respondent in C.M.P.No.13/GOONDA/C2/2018.

3. Though many grounds have been raised in the 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 the subject case was registered against the detenu for the offences u/s.341, 393, 398 r/w 506(ii) IPC in Cr.No.280 of 2017. Admittedly, the detenu has not moved any bail applications in the adverse cases. Therefore, the likelihood of coming out on bail is very remote ; whereas the statement of the Sponsoring Authority has been taken into consideration by the Detaining Authority that the relatives of the detenu are taking steps to file bail applications in the adverse cases. When a bail application has not been moved, the logical conclusion would be that there is no likelihood of coming out on bail. Therefore, we are of the view that the finding of the Detaining Authority that there is likelihood of the detenu coming out on bail, is nothing but a clear non-application of mind and the Detaining Authority has not passed the order on merits ; but passed, based on mere ipsi dixit. Hence, we are of the view that the detention order is liable to be set aside.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.13/Goonda/C2/2018 dated 13.03.2018, passed by the second respondent is set aside. The detenu, namely, Ragu @ Mettur Ragu, son of Murugesan, aged about 38 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS ix)

//True Copy//

Sub Assistant Registrar

kmi

To:

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St., George, Chennai-9.
- 2.The District Collector and District Magistrate,
Salem District.
Salem.
- 3.The Joint secretary to government public(Law and order),
Fort.St.George,
chennai.
- 4 The Public Prosecutor
High Court, Madras.
- 5.The Superintendent
Central Prison, Salem.

सत्यमेव जयते

H.C.P.No.578 of 2018

PVS(CO)
ASK(05/09/2018)

WEB COPY