

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2018

CORAM:

THE HONOURABLE Mr.JUSTICE C.T.SELVAM
and
THE HONOURABLE Mrs.JUSTICE S.RAMATHILAGAM

H.C.P. No.1803 of 2018

Yogavathi

... 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 Officer, 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 relating to the Impugned Order in No.676/BCDFGISSSV/2018 dated 07.08.2018 on the file of Second Respondent herein and set aside the same as illegal and Direct the Respondents to produce the detenu kannan, son of kanniappan, aged about 35 years, now 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.]

The petitioner is the Wife of detenu, namely, Kannan, Son of Kanniappan, age 35 years, challenges the impugned order of detention, dated 07.08.2018 in BCDFGISSSV No. 676/2018 detaining her husband as "GOONDA", as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

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

S.No.	Police Station & Crime No.	Section of Law
1.	J-7 Velachery Police Station Cr.No. 2212/2017	454, 380 IPC
2.	J-7 Velachery Police Station Cr.No. 107/2018	457, 380, IPC
3.	J-7 Velachery Police Station Cr.No. 464/2018	380 IPC
4.	J-7 Velachery Police Station Cr.No. 798/2018	379/IPC

The ground case has been registered against the detenu in Crime No.1125/2018 on the file of the Inspector of Police, J-7 Velachery Police Station for offences u/s 341, 294(b), 336, 427, 392 r/w. 397 & 506(ii) IPC. The detention order has been passed by second respondent in Memo No.676/BCDFGISSSV/2018 dated 07.08.2018.

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 4 adverse cases have been registered against the detenu and a ground case was registered against him in Crime No.1125/2018 for offences u/s 341, 294(b), 336, 427, 392 r/w. 397 & 506(ii) IPC. Admittedly, the bail application filed by the detenu in the ground case before the learned Principal Sessions Judge, Chennai, in CrI.M.P.No.12334/2018 and the same was dismissed on 31.07.2018. 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.676/BCDFGISSSV/2018 dated 07.08.2018, passed by the second respondent is set aside. The detenu, namely, Kannan Son of Kanniappan, aged about 35 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

jas/jrl
To:

1. 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 Officer, Vepery,
Chennai - 600 007.
3. The Public Prosecutor
High Court, Madras.
4. The Joint Secretary to Government Public
(L&O) Fort St. George, Chennai-9.
5. The Superintendent Central Prison,
Puzhal, Chennai.

H.C.P.No.1803 of 2018

KAN(CO)
EU(07/12/2018)

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