

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2018

CORAM

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

H.C.P.No.599 of 2018

A.Fathima

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By the Secretary,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

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

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records pertaining to the order of detention passed by the second respondent dated 22.02.2018 in 110/BCDFGISSSV/2018 against the petitioner's son, now confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondent to produce the Dhasthageer @ Danush, Male aged 21 years, son of Abdul Rasheed, before this Court and set him at liberty.

For Petitioner : Mr.R.Sethuvarayar

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 No.110/BCDFGISSSV/2018 dated 22.02.2018, whereby the detenu, by name, Dhasthageer @ Danush, son of Abdul Rasheed, aged about 21 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.1536/2017 K-4 Anna Nagar Police Station	379 IPC
2.	Cr.No.19/2018 K-4 Anna Nagar Police Station	379 IPC
3.	Cr.No.20/2018 K-4 Anna Nagar Police Station	379 IPC
4.	Cr.No.04/2018 K-3 Aminjikarai Police Station	379 IPC
5.	Cr.No.22/2018 K-3 Aminjikarai Police Station	379 IPC
6.	Cr.No.51/2018 K-4 Anna Nagar Police Station	379 IPC
7.	Cr.No.73/2018 K-4 Anna Nagar Police Station	379 IPC
8.	Cr.No.75/2018 K-4 Anna Nagar Police Station	379 IPC

The ground case has been registered against the detenu in Cr.No.92 of 2018 on the file of Inspector of Police, K-4 Anna Nagar Police Station for offences u/s 341, 294(b), 323, 392, 397, 336 and 506(ii) IPC. The detention order has been passed by Second respondent in No.110/BCDFGISSSV/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, 294(b), 323, 392, 397, 336 and 506(ii) IPC in Cr.No.92 of 2018. 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 No.110/BCDFGISSSV/2018 dated 22.02.2018, passed by the second respondent is set aside. The detenu, namely, Dhasthageer @ Danush, son of Abdul Rasheed, aged about 21 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

kmi

To:

1.The Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-600 007.

3.The Public Prosecutor
High Court, Madras.

4.The Superintendent
Central Prison, Puzhal,
Chennai.

5.The Joint Secretary to Government,
Public(Law & Order)
Fort Saint George,
Chennai-09.

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nr 05/09/2018



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