

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.12.2018

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

H.C.P. No.1806 of 2018

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... Petitioner

-Vs-

1.The State of Tamilnadu,
Rep. by its Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St George, Chennai 600 009.

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

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records leading to the detention of that my son Surendar, son of Kuppusamy, male aged about 31 years is presently lodged in Central Prison, Puzhal at Chennai and has been detained under Act 14/82 as a "Goonda" vide detention order dated 31.07.2018 on the file of the 2nd respondent herein, made in Memo No.621/BCDFGISSSV/2018 and quash the same and consequently direct the respondents herein to produce the body and person of the said detenu before this Hon'ble Court and thereafter set him at liberty from the Central Prison, Puzhal, Chennai.

For Petitioner: Mr.M.Rajavelu

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 mother of the detenu, namely, Surendar, Son of Kuppusamy, aged 31 years, challenges the impugned order of detention, dated 31.07.2018 in No.621/BCDFGISSSV/2018 detaining her son as "GOONDA", as contemplated under Section 2(f) of the Tamil Nadu Prevention of dangerous activities of Boot leggers, 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.	Thiruvallur District, E-5 Sholavaram Police Station Crime No.925/2017	379 IPC
2.	Thiruvallur District, E-5 Sholavaram Police Station Crime No.89/2018	392 IPC @ 392 r/w 411 IPC
3.	Thiruvallur District, E-5 Sholavaram Police Station Crime No.90/2018	392 IPC @ 392 r/w 34 IPC

The ground case has been registered against the detenu in Crime No.399/2018 on the file of the Inspector of Police, Crime, M-4 Red Hills Police Station for offences u/s. 341, 294(b), 336, 427, 392, 397 & 506(ii) IPC. The detention order has been passed by second respondent in No.621/BCDFGISSSV/2018 on 31.07.2018.

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 3 adverse case have been registered against the detenu and a ground case was registered against him in Cr.No.399/2018 for the offences u/s. 341, 294(b), 336, 427, 392, 397 & 506(ii) IPC. Admittedly, the detenu has moved bail application in the ground case and the same is pending before the Hon'ble High Court, Chennai in CrI.M.P.Nos.18471/2018. 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 No.621/BCDFGISSSV/2018 dated 31.07.2018, passed by the second respondent is set aside. The detenu, namely, Surendar, Son of Kuppusamy, aged about 31 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To:

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St George, Chennai 600 009.
- 2.The Commissioner of Police,
Greater Chennai,
Chennai.
- 3.The Superintendent,
Central Prison, Puzhal,
Chennai.
- 4.The Joint Secretary
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
- 5.The Public Prosecutor
High Court, Madras.

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