

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.1817 of 2018

Murugammal

... Petitioner/
Mother of the Detenu

.. Vs ..

1. The State of Tamil Nadu,
Rep. by the Secretary, Home,
Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

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

... Respondents

PRAYER: 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 detention order in Memo No.613/BCDFGISSSV/2018, dated 31.07.2018 passed by the second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's son Velmurugan, S/o.Raji, aged about 24 years, the detenu, now confined at Central Prison, Puzhal, Chennai, before this Court and set the petitioner's son Velmurugan S/o.Raji, aged about 24 years the detenu herein at liberty.

For Petitioner : Mr.U.Yuvaraj
For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor

ORDER

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

Petitioner is the mother of the detenu namely, Velmurugan, S/o.Raji, aged about 24 years, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of the second respondent passed in Memo No.613/BCDFGISSSV/2018, dated 31.07.2018.

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

S.No.	Police Station & Crime No.	Section of Law
1.	E-2 Royapettah Police Station Cr.No.413 of 2016	147, 148, 341, 324, 336, 307, 506(ii) IPC r/w. 3(1) of TNP (PDL) Act, 1992

The ground case has been registered against the detenu in Cr.No.173/2018 on the file of E-2 Royapettah Police Station for offences u/s.147, 148, 294(b), 353, 333, 397, 307 and 506(ii) IPC r/w. 3(1) of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992.

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.173/2018 for offences u/s.147, 148, 294(b), 353, 333, 397, 307 and 506(ii) IPC r/w. 3(1) of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992. Admittedly, the bail application filed by the detenu in the ground case before the learned Principal Sessions Judge, Chennai, in CrI.M.P.No.11240/2018 was dismissed on 20.07.2018. 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.613/BCDFGIISSSV/2018, dated 31.07.2018 passed by the second respondent is set aside. The

detenu, namely, Velmurugan, S/o.Raji, aged about 24 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, Home,
Prohibition and Excise Department,
The State of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
2. The Commissioner of Police,
The Greater Chennai City,
Vepery,
Chennai - 600 007.
3. The Superintendent of Central Prison, Puzhal, Chennai.
4. The Joint Secretary to Government
Public (Law and order)
Fort. St. George
Chennai 9.
5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.1817 of 2018

SP(04/01/2019)