

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2018

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.633 of 2018

Dhanalakshmi

W/o.Balasubramaniyan

... Petitioner

-vs-

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

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

3.The Inspector of Police,
K-1 Sembium Police Station,
Chennai - 600 011.

... Respondents

Writ petition under Article 226 of the Constitution of India filed praying for issuance of a Writ of Habeas Corpus calling for the records of the second respondent in Memo No.67/BCDFGISSSV/2018 dated 08.02.2018 and set aside the same and direct the respondents to produce the detenu before this Court and set the detenu Shanmugam @ Balaji, S/o.Balasubramaniyan, aged about 25 years, now confined at Central Prison, Puzhal, Chennai and set him at liberty.

For Petitioner : Mr.P.S.Muralidhara Rao

For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor

O R D E R

(The order of the Court was made by C.T.SELVAM, J)

Petitioner is the mother of the detenu viz., Shanmugam @ Balaji, S/o.Balasubramaniyan, 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 No.67/BCDFGISSSV/2018 dated 08.02.2018.

2. The detenu came to adverse notice in the following cases:

Sl.	Police Station and Crime No.	Section of law
1.	K-1 Sembium Police Station, Crime No.153/2016	147, 148, 341, 324, 307, 506(ii) IPC @ 147, 148, 341, 326, 307, 506(ii) IPC r/w 149 IPC
2.	K-1 Sembium Police Station, Crime No.80/2018	147, 148, 341, 294(b), 323, 324 and 307 IPC

The alleged ground case has been registered against the detenu in Crime No.84 of 2018 on the file of K-1 Sembium Police Station for offences under Sections 341, 294(b), 336, 392, 397 and 506 (ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Amidst several grounds raised, learned counsel for petitioner submits that the detaining authority while noticing that the detenu stands remanded to judicial custody in case registered in Crime Nos.80 and 84 of 2018 on the file of K-1 Sembium Police Station, had informed that the detenu has filed second bail application in Crime No.80 of 2018 in CrI.O.P.No.3223 of 2018 before this Court and has not moved any bail application in Crime No.84 of 2018, i.e., the ground case. However, the detaining authority had informed that the relatives of the detenu were taking efforts to move application to take him out on bail in the ground case and therefore, there was a real possibility of his coming out on bail and if he comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of public order. Though the detaining authority has informed of an effort by the relatives to move bail petition for the release of the detenu, there is no material to support such contention.

4. We have heard learned Additional Public Prosecutor on the above submissions and also perused the records.

5. We find that there absolutely is no material which would disclose the likelihood of the relatives of the detenu moving bail petition on his behalf in respect of Crime No.84 of 2018. Therefore, the non-application of mind and

erroneous subjective satisfaction arrived at by the detaining authority is apparent.

Accordingly, the impugned detention order passed by the second respondent, detaining the detenu, namely, Shanmugam @ Balaji S/o.Balasubramanian, made in 67/BCDFGISSSV/2018 dated 08.02.2018, is quashed and the Habeas Corpus Petition is allowed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

gm

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 007.
- 3.The Inspector of Police,
K-1 Sembium Police Station,
Chennai - 600 011.
- 4.The Public Prosecutor
High Court, Chennai.
- 5.The Superintendent of Police,
Central Prison,
Puzhal, Chennai.
6. The Joint Secretary to Government,
Public (law & Order),
Fort Saint George, chennai 9

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