

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MRS.JUSTICE S. RAMATHILAGAM

H.C.P. No. 1879 of 2018

P. Lakshmi

... Petitioner

-Vs-

- 1.The Secretary to the Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St George, Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai Police,
Office of the Commissioner of Police,
(Goondas Section), Egmore, 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 connected with the order of the 2nd respondent herein in Order No.722 BCDFGISSSV/2018 dated 16.08.2018 passed against the detenu namely Panneer Selvam, son of Nalliah aged about 57 years, who is confined at Central Prison, Puzhal, Chennai and set aside the same consequently, directing the respondents herein to produce the body and person of the detenu before this Hon`ble court and set at liberty.

For Petitioner : Mr. P.K.Ilavarasan

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

WEB COPY
ORDER

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

The petitioner, who is the wife of the detenu, namely, Panneer Selvam, Son of Nalliah, age 44 years, challenges the impugned order of detention, dated 16.08.2018 in Order No.722 BCDFGISSSV/2018 detaining her husband as "GOONDA", as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982

Prevention of dangerous activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982).

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

S.No.	Police Station & Crime No.	Section of Law
1.	Central Crime Branch Crime No. 135 of 2018	420 & 506(i) IPC

The ground case has been registered against the detenu in CCB Crime No.315/2018 on the file of the Inspector of Police, Team 1, EDF-I, Central Crime Branch, Greater Chennai for offences u/s 420 & 506(ii) IPC. The detention order has been passed by Second respondent in Order No.722 BCDFGISSSV/2018 on 16.08.2018.

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 one (1) adverse cases have been registered against the detenu and a ground case was registered against him in Cr.No.315/2018 for the offences u/s. 420 & 506(ii) IPC . Admittedly, the detenu has moved bail application in the ground case and the same is pending before the Metropolitan Magistrate Court for the exclusive trial of CCB Cases (relating to cheating cases in Chennai) CBCID Metro Cases, Periyamedu, in CrI.M.P.No.4086/2018. 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 Order No.722 BCDFGISSSV/2018 dated 16.08.2018, passed by the second respondent is set aside. The detenu, namely, Panneer Selvam, Son of Nalliah, aged about 57 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,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St George, Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai Police,
Office of the Commissioner of Police,
(Goondas Section), Egmore, Chennai.
3. The Superintendent,
Central Prison, Puzhal,
Chennai-66.
4. The Joint Secretary
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
5. The Public Prosecutor
High Court, Madras.

+1cc to Mr.P.K.Ilavarasan, Advocate SR.No.76948

H.C.P.No.1879 of 2018

GMV (12/12/2018)