

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2018

CORAM:

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

H.C.P. No.1901 of 2018

S.Chitra

... Petitioner

-Vs-

1. The State of TamilNadu,
Rep.by its Secretary to Government (Home),
Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Cuddalore District at Cuddalore.

.... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records relating to the Impugned Order of Detention passed by the second respondent in C3/D.O./53/2018 dated 20.08.2018 and set aside the same and consequently direct the respondents to produce the detenu Senthil, son of Angamuthu, aged about 42 years, petitioner's husband now confined at Central Prison, Cuddalore before this court and set him at liberty.

For Petitioner : Mr.S.Saravanakumar

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 wife of detenu, namely, Senthil, Son of Angamuthu, aged 42 years, challenges the impugned order of detention, dated 20.08.2018 in C3/D.O.53/2018 detaining him as "Bootlegger", as contemplated under Section 2(b) of TamilNadu Act 14 of 1982.

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

S.No.	Police Station & Crime No.	Section of Law
1.	Perambalur P.E.Wing Cr.No. 780/2017 Dt. 24.09.2017	Sec.4(1) (a) & 4(1-A) TNP Act
2.	Ramanatham P.S. Cr.No.7/2018 Dt.16.01.2018	Sec.4(1) (aaa) & 4(1-A) TNP Act & Transport Act.
3.	Keezhakuppam P.S. Cr.No. 170/2018 Dt.27.04.2018	Sec.4(1) (a), 4(1-A) & 14A TNP Act
4.	Vridhachalam P.E.Wing Cr.No. 393/2018 Dt.30.06.2018	Sec.4(1) (aaa) & 4(1-A) TNP Act & 14(A) Transport Act
5.	Vridhachalam P.E.Wing Cr.No. 498/2018 Dt.05.08.2018	Sec. 4(1) (aaa) & 4(1-A) TNP Act.

The ground case has been registered against the detenu in Crime No.501/2018 on the file of the Inspector of Police, P.E.Wing, Vridhachalam for offences u/s 4(1)(aaa), 4(1-A) and 14-A of Tamil Nadu Prohibition Act. The detention order has been passed by second respondent in C3/D.O.53/2018, on 20.08.2018.

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 5 adverse cases have been registered against the detenu and a ground case was registered against him in Crime No.501/2018 for the offences u/s 4(1)(aaa), 4(1-A) and 14-A of Tamil Nadu Prohibition Act. Admittedly, the detenu has moved bail application in the ground case and the same is pending before the District Sessions Court, Cuddalore in CrI.M.P.No.3810/2018. 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 C3/D.O./53/2018 dated 20.08.2018, passed by the second respondent is set aside. The detenu Senthil, son of Angamuthu, namely, aged about 42 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

jas/jrl

To:

1. The Secretary to government(Home),
The State of TamilNadu,
Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Cuddalore District at Cuddalore.
- 3.The Public Prosecutor
High Court, Madras.
- 4.The Superintendent,
Central Prison,
Cuddalore.

+1cc to Mr.S.Saravanakumar, Advocate sr.no.77916

H.C.P.No.1901 of 2018

nr 10/12/2018