

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2018

CORAM:

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

H.C.P. No.1907 of 2018

Rajamma

... Petitioner

-Vs-

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

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records of the detention made in D.O.No.38/2018-C2, dated 09.08.2018 passed by the District Collector and District Magistrate, Thiruvannamalai District, Thiruvannamalai the second respondent herein and set aside the same and direct the respondents to produce the detenu before this Hon'ble Court and set the detenu Thirumathi.Thattammal, wife of (Late) Vettu @ Palani, aged 35 years now confined in Special Prison for Women, Vellore set her at liberty.

सत्यमेव जयते

For Petitioner : Mr.R.Balakrishnan

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

ORDER

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

The petitioner, who is the mother of the detenu, namely, Thattammal, Wife of (Late) Vettu @ Palani, aged 35 years,

challenges the impugned order of detention, dated 09.08.2018 in D.O.No.38/2018-C2 detaining her daughter as "BOOTLEGGER", as contemplated under Section 2(b) 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.	Chengam Police Station Crime No.81/2018	4(1)(aa) TNP Act 1937
2.	Chengam Police Station Crime No.87/2018	4(1)(aaa) r/w 4(1-A) (ii) TNP Act 1937 @ 4(1)(aaa) TNP Act 1937
3.	Chengam Prohibition Enforcement Wing Crime No.364/2018	4(1)(i), 4(1)(aa) r/w 4(1- A)(ii) TNP Act 1937 @ 4(1) (aa) TNP Act 1937

The ground case has been registered against the detenu in Crime No.542/2018 on the file of the Inspector of Police, Chengam Prohibition Enforcement Wing, for offences u/s. 4(1)(i) r/w 4(1-A)(ii) Tamil Nadu Prohibition Act, 1937. The detention order has been passed by second respondent in D.O.No.38/2018-C2 on 09.08.2018.

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 3 adverse case have been registered against the detenu and a ground case was registered against him in Cr.No.542/2018 for the offences u/s. 4(1)(i) r/w 4(1-A)(ii) Tamil Nadu Prohibition Act, 1937. Admittedly, the detenu has moved bail application in the 1st

adverse case in Crime No.81/2018 and the 3rd adverse case in Crime No.364/2018 and the same are pending before the Hon'ble Judicial Magistrate Court, Chengam in Crl.M.P.Nos.2408/2018 dated 04.08.2018 and 2416/2018 dated 06.08.2018 respectively. 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 D.O.No.38/2018-C2 dated 09.08.2018, passed by the second respondent is set aside. The detenu, namely, Thattammal, Wife of Vettu @ Palani, aged about 35 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

kkn

To:

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St George, Chennai 600 009.
2. The District Collector and District Magistrate,
Thiruvannamalai District,
Thiruvannamalai.
3. The Superintendent,
Special Prison for Women,
Vellore.

4.The Joint Secretary
Public (Law and order) Department,
Secretariat, Chennai - 600 009.

5.The Public Prosecutor
High Court, Madras.

H.C.P.No.1907 of 2018

CSL/11.01.2019



WEB COPY