

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.772 of 2018

V.Sivagami
W/o.Varatharaj

... Petitioner

-Vs-

1.The State of Tamil Nadu,
represented by its
Secretary to Government,
Prohibition and Excise Department (Home),
Chennai - 600009.

2.The District Collector and District Magistrate,
Villupuram District,
Villupuram.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records in C2/7172/2018 dated 13.03.2018 on the file of the second respondent and quash the same as illegal and consequently direct the respondents to produce the petitioner's husband Varatharaj @ Kaipillai Raj S/o.Saravanan, aged about 27 years, now detained in Central Prison, Cuddalore, before this Court and set him at liberty.

For Petitioner: Mr.K.Gandhi kUmar

For Respondents: Mr.M.Mohamed Riyaz

Additional Public Prosecutor

O R D E R

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

Petitioner is the wife of the detenu Varatharaj alias Kaipillai S/o.Saravanan, 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.C2/7172/2018 dated 13.03.2018.

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

Sl.No .	Police Station and Crime No.	Sections of Law
1.	Vikiravandi Police Station, Crime No.811 of 2015	294(b), 307 IPC r/w 3(1)(x), 3(2)(v) SC/ST (POA) Act, 1989 @ 147, 148, 341, 294(b), 307 and 109 IPC r/w 3(1)(x), 3(2)(v) SC/ST (POA) Act, 1989
2.	Valavanur Police Station, Crime No.10 of 2017	147, 148, 341, 294(b), 307, 397 and 506(ii) IPC r/w 3 of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992
3.	Vikiravandi Police Station, Crime No.74 of 2018	294(b), 324, 332, 506(ii) and 307 IPC
4.	Villupuram Taluk Police Station, Crime No.126/2018	397 IPC

The alleged ground case has been registered against the detenu in Crime No.128 of 2018 on the file of Villupuram Taluk Police Station for offences under sections 294(b), 323, 506(ii) and 307 IPC r/w Section 3 of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992. 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 has not filed any bail application in the ground case, he had informed that the relatives of the detenu were taking efforts to move bail application to take him out on bail 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 the ground case. 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, Varatharaj alias Kaipillai S/o.Saravanan, made in No.C2/7172/2018 dated 13.03.2018, 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.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

- 1.The Secretary to Government,
Prohibition and Excise Department (Home),
Chennai - 600009.
- 2.The District Collector and District Magistrate,
Villupuram District,
Villupuram.
- 3.The Superintendent of Central Prison,
Cuddalore.
4. The Joint Secretary to Government
Public (Law and order)
Fort. St. George
Chennai 9.
- 5.The Public Prosecutor,
High Court, Madras.

सत्यमेव जयते

H.C.P.No.772 of 2018

RGN(CO)
SP(18/09/2018)

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