

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2018

CORAM:

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

H.C.P. No.2064 of 2018

Sidduraj

... Petitioner

-Vs-

1.The Commissioner of Police,
Salem City.

2.The State of Tamil Nadu
Rep. By the Secretary to the Government,
Prohibition & Excise Department,
Fort St.George,
Chennai - 600 009.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the entire records in connection with the order of Detention passed by the first respondent dated 23.07.2018 in C.M.P.No.43/Goonda/Salem City/2018, against the petitioner who is confined at Central Prison, Salem, and set aside the same and direct the respondents to produce the detenu before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.A.K.Manojkumar

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 detenu, namely, Sidduraj, Son of Ravichandran, age 23 years, challenges the impugned order of detention, dated 23.07.2018 in C.M.P.No.43/Goonda/Salem City/2018 detaining him as "GOONDA", as contemplated under Section 2(f) 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.	Kitchipalayam Police Station Crime No.162/2016	392 IPC
2.	Sooramangalam Police Station Crime No.1019/2017	392 IPC
3.	Kitchipalayam Police Station Crime No.359/2018	379 IPC

The ground case has been registered against the detenu in Crime No.360/2018 on the file of the Inspector of Police, Kitchipalayam Police Station for offences u/s 392, 397 and 506 (ii) IPC. The detention order has been passed by first respondent in C.M.P.No.43/Goonda/Salem City/2018 on 23.07.2018.

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 cases have been registered against the detenu and a ground case was registered against him in Cr.No.360/2018 for the offences 392, 397 and 506(ii) IPC. Admittedly, the detenu has not moved any bail application in the ground case in Crime No.360/2018 and in all three adverse cases Crime Nos.162/2016, 1019/2017 and 359/2018. 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 detenue 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 C.M.P.No.43/Goonda/Salem City/2018 dated 23.07.2018, passed by the first respondent is set aside. The detenu, namely, Sidduraj, Son of Ravichandran, aged about 23 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 Commissioner of Police,
Greater Chennai City,
Vepery, Chennai - 600 007.
- 2.The Secretary to the Government,
Prohibition & Excise Department,
Fort St.George,
Chennai - 600 009.
- 3.The Superintendent,
Central Prison, Salem.
- 4.The Joint Secretary
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
- 5.The Public Prosecutor
High Court, Madras.

+1cc to Mr.A.K.Manojkumar, Advocate SR.No.82021

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GMV (31/12/2018)