

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2018

CORAM:

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

H.C.P. No.2071 of 2018

Prakash

... Petitioner

-Vs-

1.The District Magistrate and District Collector,
Tiruppur District,
Tiruppur.

2.The Secretary to Government,
Government of Tamil Nadu (Home),
Prohibition and Excise Department,
Fort St.George, Chennai - 9.

... 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 No.Cr.M.P.No.5/Goonda/2018 daed 10.05.2018 on file of the 1st respondent herein and set aside the same as illegal and direct the respondent to produce the detune namely Prakash son of Late.Ramasamy, Hindu aged about 24 years, now confined at Central Prison, Coimbatore before this Hon'ble Court set aside him at liberty.

For Petitioner : Mr.S.Chandrasekaran

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, Prakash, Son Late. Ramasamy, age 24 years, challenges the impugned order of detention, dated 10.05.2018 in Cr.M.P.No.05/GOONDA/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 case:-

S.No.	Police Station & Crime No.	Section of Law
1.	Kancheepuram District, Somangalam Police station Crime No.136/2013	454 & 380 IPC
2.	Chrompet Police Station Crime No.1717/2015	379 IPC
3.	Seyyur Police Station Crime No.387/2017	457 & 380 IPC
4.	Avinashi Police Station Crime No.127/2018	454, 457 & 380 IPC altered into 457 & 380 IPC

The ground case has been registered against the detenu in Crime No.201/2018 on the file of the Inspector of Police, Avinashi Police Station for offences u/s 454, 457 & 380 IPC @ 457 & 380 IPC. The detention order has been passed by first respondent in Cr.M.P.No.05/GOONDA/2018 on 10.05.2018.

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 4 adverse cases have been registered against the detenu and a ground case was registered against him in Cr.No.201/2018 for the offences u/s.454, 457 & 380 IPC @ 457 & 380 IPC. Admittedly, the detenu has not moved any bail application in the ground case. 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 detainee 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 Cr.M.P.No.05/GOONDA/2018 dated 10.05.2018, passed by the first respondent is set aside. The detenu, namely, Prakash, Son of Late. Ramasamy, aged about 24 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

kkn

To

1.The District Magistrate and District Collector,
Tiruppur District, Tiruppur.

2.The Secretary to Government,
Government of Tamil Nadu (Home),
Prohibition and Excise Department,
Fort St.George, Chennai - 9.

3.The Superintendent,
Central Prison, Coimbatore.

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

5.The Public Prosecutor
High Court, Madras.

सत्यमेव जयते

+1 cc to Mr.S.Chandrasekaran, Advocate SR.No.77196

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SKV(CO)
CSL/03.12.2018