

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM

and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.998 of 2018

R.Rathi Devi

W/o.K.Raghu ... Petitioner

-Vs-

1.Government of Tamil Nadu

represented by its

Additional Chief Secretary,

Home, Prohibition and Excise (XVI) Department,

Fort St.George,

Chennai - 600009.

2.The Commissioner of Police,

Greater Chennai,

Office of the Commissioner of Police,

Vepery, Chennai - 600007. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records pertaining to the detention order vide Memo No.265/BCDFGISSSV/2018 dated 27.04.2018 on the file of second respondent and quash the same and direct the respondents herein to produce the body of Raghu S/o.Kalyani @ Kalyanakumar, male, aged 34 years, the detenu now confined at Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.T.Balachandran

For Respondents : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

O R D E R

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

Petitioner is the wife of the detenu Raghu S/o.Kalyani, 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.265/BCDFGISSSV/2018 dated 27.04.2018.

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

Sl.No.

Police Station and Crime No.

Offences u/s.

1.

M7 Manali New Town Police Station, Crime No.117/2018

448, 342 and 384 IPC @ 147, 148, 448, 342, 384, 506(ii) IPC & 25(3)(i) Arms Act 1959

2.

M2 Madhavaram Milk Colony Police Station,

Crime No.105/2018

147, 148, 384 & 506(ii) IPC r/w 25(1)(a) of Arms Act

3.

M3 Puzhal Police Station, Crime No.237/2018

294(b), 387, 506(ii) and 507 IPC

The alleged ground case has been registered against the detenu in Crime No.339 of 2018 on the file of H1 Washermenpet Police Station for offences under sections 147, 148, 341, 294(b), 323, 397, 336, 427 and 506(ii) IPC r/w 25(3)(i) Arms Act, 1959. 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 is in remand in the ground as well as in the adverse cases and has filed a bail application in Crime No.339 of 2018 before learned Principal Sessions Judge, Chennai and the same was dismissed and filed another bail application before this Court in Crl.O.P.No.11020 of 2018 and the same is pending and no bail applications have been moved in the adverse cases, he had informed that the relatives of the detenu were taking efforts to move bail applications in the adverse cases 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 adverse cases. Therefore, the non-application of mind and erroneous subjective satisfaction arrived at by the detaining authority is apparent.

C.T.SELVAM, J

and

M.NIRMAL KUMAR, J

gm

Accordingly, the impugned detention order passed by the second respondent, detaining the detenu, namely, Raghu S/o.Kalyani, made in No.265/BCDFGISSSV/2018 dated 27.04.2018, 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.

[C.T.S., J] [M.N.K., J]

20.09.2018

Index:yes/no,

Internet:yes

gm

To

1.The Additional Chief Secretary,
Home, Prohibition and Excise (XVI) Department,
Fort St.George,
Chennai - 600009.

2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Vepery, Chennai - 600007.

3.The Public Prosecutor,
High Court, Madras.

4.The Superintendent of Central Prison,
Puzhal, Chennai.

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