

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2018

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.2175 of 2018

S.Senthil Kumar @ Buck Buck Senthil

.. Petitioner

Vs.

1. The State

Represented by its  
Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St. George, Chennai-600 009.

2. The State

Represented by its  
The Commissioner of Police/ Detaining Authority,  
Coimbatore City, Coimbatore.

3. The State

Represented by its  
The Inspector of Police  
Law and Order  
B2 R.S.Puram Police Station,  
Coimbatore City, Coimbatore.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to call for the entire records connected with the Detention Order passed by the 2<sup>nd</sup> Respondent in C.No.23/G/IS/2018 dated 10.02.2018 and quash the same and direct the respondents to produce the Petitioner namely S.Senthil Kumar @ Buck Buck Senthil, Son of Subramaniam, aged about 40 years detained in Central Prison, Coimbatore before this Hon'ble court and set at liberty.

|                 |   |                                                     |
|-----------------|---|-----------------------------------------------------|
| For Petitioner  | : | Mr.P.C.Perumal Pandian                              |
| For Respondents | : | Mr.M.Mohamed Riyaz,<br>Additional Public Prosecutor |

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O R D E R

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

Challenge is made to the order of detention passed by the second respondent vide Proceedings in C.No.23/G/IS/2018 dated 10.02.2018, whereby the detenu, by name, S.Senthilkumar @ Buckbuck Senthil, son of Subramaniam, aged about 40 years, was ordered to be detained under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a "DRUG OFFENDER".

2. The ground case has been registered against the detenu in Cr.No.20/2018 on the file of Inspector of Police, B-2 R.S.Puram Police Station, Coimbatore City for offence u/s 8(c) r/w 20(b)(ii)(B) NDPS Act, 1985. The detention order has been passed by second respondent in C.No.23/G/IS/2018.

3. We have heard learned counsel for petitioner and the learned Additional Public Prosecutor appearing for respondents. We have also perused the records produced by the Detaining Authority.

4. Though many grounds have been raised in the 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. Further, the Grounds of Detention would reveal that a ground case was registered against the detenu in Cr.No.20/2018 for offences u/s 8(c) r/w 20(b)(ii)(B) NDPS Act, 1985. 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 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 C.No.23/G/IS/2018 dated 10.02.2018, passed by the second respondent is set aside. The detenu, namely, S.Senthilkumar @ Buckbuck Senthil, son of Subramaniam, aged about 40 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-  
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St. George, Chennai-600 009.
2. The Commissioner of Police/ Detaining Authority,  
Coimbatore City, Coimbatore.
3. The Inspector of Police  
Law and Order  
B2 R.S.Puram Police Station,  
Coimbatore City, Coimbatore.
- 4.The Superintendent,  
Central Prison, Coimbatore.
5. The Joint Secretary,  
Public (Law and order) Department,  
Secretariat, Chennai - 600 009.
- 6.The Public Prosecutor  
High Court, Madras.

H.C.P.No.2175 of 2018

A.SK(22/01/2019)

सत्यमेव जयते

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