

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2018

CORAM:

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

H.C.P. No.2187 of 2018

Rizwana Yasmeen
W/o.Imran Khan @ Karthik

... Petitioner

-Vs-

1.The Secretary to Government
Home, Prohibition and Excise Department,
Fort St George, Chennai 600 009.

2.The Commissioner of Police,
Office of the Commissioner of Police,
Greater Chennai,
Vepery, Chennai-600 007.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records in connection with the detention order passed by the 2nd respondent in Memo No.660/BCDFGISSSV/2018 dated 06.08.2018 against the petitioner's husband the detenu herein now confined in Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu Imran Khan @ Karthik, son of Mohammed Ali, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.Gilbert Pereira

For Respondents : Mr.R.Prathap Kumar
Additional Public Prosecutor

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ORDER

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

The petitioner, who is the wife of the detenu, namely, Imran Khan @ Karthik, Son of Mohammed Ali, age 29 years, challenges the impugned order of detention, dated 06.08.2018 in No.660/BCDFGISSSV/2018 detaining her husband as "GOONDA", as contemplated under Section 2(f) 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 14/1982).

2. The detenu has come to adverse notice in the following case:-

S.No.	Police Station & Crime No.	Section of Law
1.	Central Crime Branch Crime No.53/2018	379, 420, 511, 34 IPC & 66, 43 of Information & Technology Act

The ground case has been registered against the detenu in Crime No.305/2018 on the file of the Inspector of Police, Team XXXI, Bank Fraud Investigation Wing, Central Crime Branch for offences u/s 379, 420, 465, 468, 471 IPC and 66 of Information and Technology Act, 2000. The detention order has been passed by second respondent in No.660/BCDFGISSSV/2018 on 06.08.2018.

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 one adverse case has been registered against the detenu and a ground case was registered against him in Cr.No.305/2018 for the offences u/s.379, 420, 465, 468, 471 IPC and 66 of Information and Technology Act, 2000. Admittedly, the detenu has moved bail application in the ground case and the same is pending before the Metropolitan Magistrate Court for exclusive trial of CCB Cases (relating to cheating cases in Chennai) and CB CID Metro cases, Chennai in CrI.M.P.No.4482/2018. He has also moved bail application in the adverse case and the same is also pending before the Judicial Magistrate Court, Alanthur in CrI.M.P.No.4482/2018. 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 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 No.660/BCDFGISSSV/2018 dated 06.08.2018, passed by the second respondent is set aside. The detenu, namely, Imran Khan @ Karthik, Son of Mohammed Ali, aged about 29 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 Secretary to Government
Home, Prohibition and Excise Department,
Fort St George, Chennai 600 009.
- 2.The Commissioner of Police,
Office of the Commissioner of Police,
Greater Chennai,
Vepery, Chennai-600 007.
- 3.The Superintendent,
Central Prison,
Puzhal, Chennai.
- 4.The Joint Secretary
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
- 5.The Public Prosecutor
High Court, Madras.

+1cc to Mr.Gilbert Pererra, Advocate SR.No.86065

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GMY (22/01/2019)