

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2018

CORAM:

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

H.C.P. No.2236 of 2018

Dhina @ Dhinakaran

... Petitioner/Detenu

-Vs-

1.The State of Tamil Nadu

rep by it's,

The Principal Secretary to Government, Home
Prohibition & Excise Department,
Secretariat, Chennai - 600 009.

2.The District Collector and District Magistrate,
Erode District, Erode.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, call for the records relating to the detention order passed by the Second respondent dated 26.06.2018 in CrI.M.P.No.09/Goonda/2018/C1 against the petitioner/Detenu Dhina @ Dhinakaran Son of Shanmugam, aged about 21 years who is now confined at Central Prison, Coimbatore and set aside the same and direct the respondents to produce him before this Court and set him at liberty.

For Petitioner : M/s.Thangapandi.K

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, Dhina alias Dhinakaran, Son of Shanmugam, age 21 years, challenges the impugned order of detention, dated 26.06.2018 in CrI.M.P.No.09/Goonda/2018/C1 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.	Karungalpalayam Police Station Crime No.71/2016, dated 25.05.2016	Section 379 IPC
2.	Chithode Police Station Crime No.205/2016, dated 25.05.2016	Section 457, 511 IPC and Section 3(i) of Tamil Nadu Prevention Public Property (Damage & Loss) Act, 1992.
3.	Erode Town Police Station Crime No.708/2016, dated 27.08.2016	Section 379 IPC
4.	Erode Town Police Station, Crime No.489/2017, dated 14.07.2017	Section 379 IPC
5.	Erode Town Police Station, Crime No.63/2017, dated 23.01.2017	Section 379 IPC
6.	Erode North Police Station Crime No.152/2018 dated 15.03.2018	Section 392, 506(i) IPC

The ground case has been registered against the detenu in Crime No.310/2018 on the file of the Inspector of Police, Chithode Police Station for offences u/s 397 IPC. The detention order has been passed by Second respondent in CrI.M.P.No.09/Goonda/2018/C1 on 26.06.2018.

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 six adverse cases have been registered against the detenu and a ground case was registered against him in Cr.No.310/2018 for the offence 397 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 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 Crl.M.P.No.09/Goonda/2018/C1 dated 26.06.2018, passed by the Second respondent is set aside. The detenu, namely, Dhina alias Dhinakaran, Son of Shanmugam, aged about 21 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

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To:

1. The Secretary to the Government,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai - 600 009.
2. The District Collector and,
District Magistrate, Erode District,
Erode.
- 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.

+1cc to Mr.K.Thangapandi, Advocate SR.No.84290

H.C.P.No.2236 of 2018

GJ(CO)
GMY(09/01/2019)



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