

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2018

CORAM:

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

H.C.P. No.2199 of 2018

P.Akila

... Petitioner

Vs

1.The State of Tamil Nadu
Rep. by its Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Police,
City Police Office,
Huzur Road, Coimbatore City,
Coimbatore 18.

....Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the entire records, relating to my husband R.Prabu S/o. Ravikumar, aged about 36 years detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 17.09.2018. On the file of the Second Respondent herein made in proceeding C.No.104/G/IS/2018 detained in Central Prison, Coimbatore, quash the same as illegal and consequently direct the respondents herein to produce my husband before this Hon'ble High Court and set my husband at liberty.

For Petitioner : Mr.R.Vivekananthan

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 wife of the detenu, namely, R.Prabhu, Son of Ravikumar, age 36 years, challenges the impugned order of detention, dated 17.09.2018 in

C.No.104/G/IS/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.	Coimbatore City, C-4 Rathinapuri Police Station Crime No.844/2017	392 IPC
2.	Coimbatore City, C-3 Saibaba Colony Police Station Crime No.1130/2017	392 IPC
3.	Coimbatore City, C-4 Rathinapuri Police Station Crime No.273/2018	454 and 380 IPC

The ground case has been registered against the detenu in Crime No.673/2018 on the file of the Inspector of Police, Crime, C-3 Saibaba Colony Police Station, Coimbatore City for offences u/s 392 r/w 397 and 506(ii) IPC. The detention order has been passed by first respondent in Memo C.No.104/G/IS/2018 on 17.09.2018.

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 adverse cases have been registered against the detenu and a ground case was registered against him in Cr.No.673/2018 for the offences 392 r/w 397 and 506(ii) 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 Memo C.No.104/G/IS/2018 dated 17.09.2018, passed by the Second respondent is set aside. The detenu, namely, R.Prabhu, Son of Ravikumar, aged about 36 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 the Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 600 009.
- 2.The Commissioner of Police,
City Police Office,
Huzur Road, Coimbatore City,
Coimbatore 18.
- 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.

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GSP(02/01/2019)