

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

H.C.P.No.2257 of 2018

Selvi
W/o.Subramani

... Petitioner

-Vs-

1.The Government of Tamil Nadu, rep by its
Secretary, Home, Prohibition
And Excise (XVI) Department
Fort St, George, Chennai-600 009.

2.The Commissioner of Police
Office of Commissioner of Police,
Greater Chennai,
Veppery, Chennai

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records in detention order Memo.No768/BCDFGISSSV/2018 dated 27.08.2018 on the file of the second respondent and quash the same and direct the respondents herein to produce the body of the petitioner's son Ganesan @ Auto Ganesan aged about 31 years, the detenu now confined in Central Prison, Puzhal before this Hon'ble Court.

For Petitioner : Mr.K.Kannan

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

O R D E R

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

Petitioner is the mother of detenu Ganesan @ Auto Ganesan S/o.Subramani, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of second

respondent passed in No.768/BCDFGISSSV/2018 dated 27.08.2018.

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

SI.No	Police Station and Crime No.	Section of Law
1.	V-4 Rajamangalam Police Station Cr.No.142/2017	8(c) r/w 20 (b) (ii) (A) of NDPS Act 1985
2.	M-4 Redhills Police Station Cr.No.720/2017	8(c) r/w 20 (b) (ii) (c) of NDPS Act 1985
3.	M-3 Puzhal Police Station Cr.No.1728/2017	147, 148, 341, 294 (b), 307 IPC
4.	V-4 Rajamangalam Police Station Cr.No.582/2018	341, 307, 507 (ii) IPC & 3(1) TNPPDL Act 1992
5.	V-4 Rajamangalam Police Station Cr.No.584/2018	294(b), 341, 324, 506(ii) IPC
6.	V-4 Rajamangalam Police Station Cr.No.585/2018	341, 324, 506(ii) IPC
7.	V-4 Rajamangalam Police Station Cr.No.586/2018	324, 506(ii) IPC

The alleged ground case has been registered against the detenu in Crime No.587 of 2018 on the file of V-4 Rajamangalam Police Station, for offences under sections 341, 294 (b), 323, 397, 336, 427 and 506(ii) IPC. 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 Crime Nos.582, 584, 585, 586 and 587 of 2018 and has not moved any bail application in Crime Nos.582 and 587 of 2018, he had informed that steps were being taken by the relatives of the detenu to move bail application to take him out on bail in such cases 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 Crime Nos.582 and 587 of 2018. Therefore, the non-application of mind and erroneous subjective satisfaction arrived at by the detaining authority is apparent.

Accordingly, the impugned detention order passed by second respondent, detaining the detenu, namely, Ganesan @ Auto Ganesan S/o.Subramani, made in No.768/BCDFGISSSV/2018 dated 27.08.2018, 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.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

gm/rst

To

- 1.The Secretary
The Government of Tamil Nadu,
Home, Prohibition and Excise (XVI) Department
Fort St, George, Chennai-600 009.
- 2.The Commissioner of Police
Office of Commissioner of Police,
Greater Chennai,
Veppery, Chennai.
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The Superintendent of Central Prison,
Puzhal, Chennai.

GMY (11/01/2019)

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