

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.2267 of 2018

Saroja

... Petitioner

-Vs-

- 1.The Comissioner of Police,
Greater Chennai, Chennai Police,
No.132, Commissioner Office Building,
EVK Sampath Road, Vepery,
Periyamet, Chennai - 600 007.
- 2.The Government of Tamil Nadu,
Rep. by its Additional Chief Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 3.The Superintendent of Central Prison,
Puzhal, Chennai - 600 006.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records of the first respondent relating to detention order No.835/BCDFGISSSV/2018 dated 14.09.2018 passed by the 1st respondent - the Commissioner of Police, Greater Chennai, Chennai - 600 007 and to quash the same, and direct the respondents to produce the body of the detenu Ravichandran, S/o. Prithivirajan aged 43 years, now detained in the Central Prison, Puzhal, Chennai, under 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) before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.N.Vinoth Kannan

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 mother of the detenu, namely, Ravichandran, Son of Prithivirajan, aged 43 years, challenges the impugned order of detention, dated 14.09.2018 in No.835/BCDFGISSSV/2018 detaining her son as "IMMORAL TRAFFIC OFFENDER", as contemplated under Section 2(g) 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.	Anti Vice Squad - I, Crime No. 60/2017	3(2)a, 4(1) & 5(1)a of ITP Act

The ground case has been registered against the detenu in Crime No.104/2018 on the file of the Inspector of Police, Anti Vice Squad - I, for offences u/s 3(2)a, 4(1), 5(1)a, 6(1) & 7(1) of ITP Act. The detention order has been passed by first respondent in No.835/BCDFGISSSV/2018 on 14.09.2018.

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 1 adverse case has been registered against the detenu and a ground case was registered against him in Cr.No.104/2018 for the offences u/s. 3(2)a, 4(1), 5(1)a, 6(1) & 7(1) of ITP Act. Admittedly, the detenu has moved bail application in the ground case as also in the adverse case and the same are pending before the IV Metropolitan Magistrate Court, Saidapet in CrI.M.P.Nos.1697/2018 and 1686/2018 respectively. 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.835/BCDFGISSSV/2018 dated 14.09.2018, passed by the first respondent is set aside. The detenu, namely, Ravichandran, Son of Prithivirajan, aged about 43 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 Comissioner of Police,
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Rep. by its Additional Chief Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 3.The Superintendent of Central Prison,
Puzhal, Chennai - 600 006.
- 4.The Joint Secretary
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
- 5.The Public Prosecutor
High Court, Madras.

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CSL/11.01.2019