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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2018

CORAM:

THE HONOURABLE Mr.JUSTICE C.T.SELVAM
and
THE HONOURABLE Mr.JUSTICE B.PUGALENDHI

H.C.P. No.2568 of 2018

Anjalatchi
W/o.Murugan

... Petitioner

-Vs-

1.The District Magistrate & District Collector,
Cuddalore District, Cuddalore.

2.The Secretary to the Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records in C3/D.O/65/2018 on the file of the first respondent, quash the detention order dated 17.10.2018 and direct the production of the detenu Murugan, Son of Selvam, presently detained at the Central Prison, Cuddalore, under the Tamil Nadu Act 14 of 1982 before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.A.M.Rahamath Ali

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, Murugan, Son of Selvam, age 38 years, challenges the impugned order of detention, dated 17.10.2018 in C3/D.O/65/2018 detaining her husband as "BOOTLEGGERS", as contemplated under Section 2(b) 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:-

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S.No.	Police Station & Crime No.	Section of Law
1.	Reddichavadi Police station Crime No.04/2018	4(1) (aaa), 4(1-A) TNP Act @ 4(1)(a) TNP Act.
2.	Cuddalore O.T. Police Station Crime No.293/2018	4(1) (aaa), 4(1-A) TNP Act r/w 14A Transport Act.
3.	Cuddalore O.T. Police station Crime No.333/2018	4(1) (aaa), 4(1-A) TNP Act
4.	Cuddalore P.E.Wing Crime No.441/2018	4(1) (aaa), 4(1-A) TNP Act

The ground case has been registered against the detenu in Crime No.610/2018 on the file of the Inspector of Police, Cuddalore Old Town Police Station for offences u/s 4(1) (aaa) & 4(1-A) TNP Act 1937 r/w 14-A Transport Act. The detention order has been passed by first respondent in C3/D.O/65/2018.

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 4 adverse cases have been registered against the detenu and a ground case was registered against him in Cr.No.610/2018 for the offences u/s.4(1) (aaa) & 4(1-A) TNP Act 1937 r/w 14-A Transport Act. Admittedly, the detenu has moved bail application in the ground case before the District and Sessions Court, Cuddalore in CrI.M.P.No.5261/2018 and the same was dismissed on 11.10.2018 and he has filed another bail application on 15.10.2018 before this Court in CrI.O.P.No.24564/2018 and the same is pending. 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 C3/D.O/65/2018 dated 17.10.2018, passed by the first respondent is set aside. The detenu, namely, Murugan, Son of Selvam, aged about 38 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

kmi

To:

- 1.The District Magistrate & District Collector,
Cuddalore District, Cuddalore.
- 2.The Secretary to the Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.
- 3.The Superintendent,
Central Prison, Cuddalore.
- 4.The Joint Secretary
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
- 5.The Public Prosecutor
High Court, Madras.

H.C.P.No.2568 of 2018

CSL/11.01.2019