

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 13.12.2018

CORAM:
THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE Mrs.JUSTICE S.RAMATHILAGAM

H.C.P. No.2638 of 2018

R.Sridevi

... Petitioner

-Vs-

1.The Secretary to Government (Home),
Prohibition and Excise Department,
Government of Tamilnadu,
Fort St.George, Chennai - 600 009.

2.The Commissioner of Police,
Tiruppur City, Tiruppur District.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records pertaining to the order of detention dated 09.05.2018 passed by the 2nd respondent in No.C.No.06/G/IS/2018, and quash the same and produce the detenu, Rajesh @ Rajasekar, S/o. Gopal, aged about 29 years, before this Hon'ble Court and set him at liberty and the detenu now confined in Central Prison, Coimbatore.

For Petitioner : Mr.D.Mariojohnson

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

ORDER

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

Petitioner, who is the wife of the detenu, viz., Rajesh @ Rajasekar, Son of Gopal, aged 29 years, challenges the impugned order of detention, dated 09.05.2018 in C.No.06/G/IS/2018 detaining her husband as "GOONDA", as contemplated under Section 2(f) 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 cases:-

S.No.	Police Station & Crime No.	Section of Law
1.	Tiruppur City 15-Velampalayam Police Station Crime No.731/2013	147, 294(b) & 506(i) IPC
2.	Tiruppur District Avinasipalayam Police Station Crime No.402/2015	392 IPC
3.	Tiruppur City North Police Station Crime No.316/2018	147, 148, 294(b), 341, 307 & 506(ii) IPC

The ground case has been registered against the detenu in Cr.No.325/2018 on the file of the Tiruppur City North Police Station for offences u/s 341, 392, 397 & 506(ii) IPC. The detention order has been passed by second respondent in C.No.06/G/IS/2018 on 09.05.2018.

3. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have perused the counter affidavit as also 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. A perusal of the Grounds of Detention would reveal that 3 adverse cases have been registered against the detenu and a ground case came to be registered against him in Cr.No.325/2018 for the offences u/s. 341, 392, 397 & 506(ii) IPC. Admittedly, the bail application filed by the detenu in the 3rd adverse case Crime No.316/2018 before the District Principal and Sessions Court, Tiruppur, in CrI.M.P.No.639/2018 and the same was dismissed on 23.04.2018. 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 C.No.06/G/IS/2018, dated 09.05.2018, passed by the second respondent is set aside. The detenu, namely, Rajesh @ Rajasekar, Son of Gopal, aged 29 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 Government
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
- 2.The Commissioner of Police,
Tiruppur City, Tiruppur District.
- 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.

H.C.P.No.2638 of 2018

rrs 23/01/2019

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