

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.2770 of 2018

Suguna
W/o.Senthil

... Petitioner

-vs-

1.State of Tamilnadu,
Rep. by the Secretary, Home,
Prohibition and Excise Department,
Fort St.George, Chennai-600 009.

2.District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Cuddalore District. ... Respondents

Writ petition under Article 226 of the Constitution of India filed praying for issuance of a Writ of Habeas Corpus calling for the records relating to the detention order in No.C3/D.O./04/2018, dated 17.01.2018 passed by the second respondent under the Tamilnadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's husband Senthil S/o.Moorthy aged about 35 years the detenu, now confined in Central Prison, Cuddalore before this Hon'ble Court and set the petitioner's husband Senthil S/o.Moorthy aged about 35 years the detenu herein at liberty.

For Petitioner :Mr.D.Gopi Krishnan

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 wife of the detenu Senthil S/o.Moorthy, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in C3/D.O/04/2018 dated 17.01.2018.

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

SI.No	Police Station/ Cr.No.	Section of Law
1.	Pennadam P.S. Cr.No.506/2017 24.12.2017 Dt	Sec.457, 380 IPC
2.	Pennadam P.S. Cr.No.507/2017 dt.25.12.2017	Sec.379 IPC
3.	Pennadam P.S. Cr.No.508/2017 Dt.25.12.2017	Sec.379 IPC
4.	Tittakudi P.S. Cr.No.254/2017 Dt.26.12.2017	Sec.457, 380 IPC
5.	Tittakudi P.S. Cr.No.255/2017 Dt.26.12.2017	Sec.379 IPC
6.	Tittakudi P.S. Cr.No.256/2017 Dt.27.12.2017	Sec. 379 IPC

The alleged ground case has been registered against the detenu in Crime No.509 of 2017 on the file of Pennadam Police Station, for offence u/s.341, 392, 394 IPC r/w 397 IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Heard learned counsel for petitioner and learned Additional Public Prosecutor for respondents. Perused the materials on record.

4. The detaining authority while noticing that the detenu was remanded in the ground case and has not filed any bail application, he had informed that in a similar case bail has been granted by learned District Sessions Judge, Cuddalore, in CrI.M.P.No.957 of 2016 dated 09.03.2016 and therefore, there was a real possibility of his coming out on bail by filing bail application in the ground case and if he comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of public order. This Court, under orders in H.C.P.No.1520 of 2017 dated 04.12.2017, has held thus:

'5(ii). ... The Detaining Authority, according to us, had wrongly entertained an apprehension that the detenu would be released on bail, by adverting to the fact that in similar cases, bail was granted. According to us, this is not have been taken as the basis to come to such a conclusion. In granting bail the Court inter alia takes into account several

aspects most of which are case specific. Those would include the gravity of the offence, the ability to suborn witnesses and the likelihood of the accused fleeing from justice. The "similarity case" yardstick applied by the Detaining Authority, based on the provisions of law under which an accused is booked, cannot be a satisfactory indicator for coming to the conclusion that the likelihood of the detenu being enlarged on bail was real and imminent.'

We are in agreement with the above finding. For the said reason, the order under challenge would have to fall.

The Habeas Corpus Petition is allowed and the impugned detention order passed by second respondent, detaining the detenu Senthil S/o.Moorthy in C3/D.O/04/2018 dated 17.01.2018 is quashed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

-s/d-
Deputy Registrar

True Copy

Sub-Assistant Registrar

gm/rst
To

- 1.The Secretary
The State of Tamilnadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Cuddalore District.
- 3.The Superintendent,
Central Prison, Cuddalore.
- 4.The Public Prosecutor
High Court, Chennai.

H.C.P.No.2770 of 2018

SP(24/01/2019)