

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 25.04.2018****CORAM:**

THE HONOURABLE Mr. JUSTICE C.T.SELVAM
and
THE HONOURABLE Mr. JUSTICE A.M.BASHEER AHAMED

H.C.P.(MD)No.463 of 2018

Sevanthu

... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

2.The District Collector and District Magistrate,
Dindigul District,
Dindigul.

3.The Superintendent of Prison,
Special Prison for Women,
Madurai.

... Respondents

PRAYER: The petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, calling for the entire records connected with the Detention Order No.07/2018 dated 11.02.2018 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely Sevanthu, aged about 50 years, W/o. Ramar, now detained at the Special Prison for Women, Madurai, before this Hon'ble Court and set her at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.V.Neelakandan
Additional Public Prosecutor.

ORDER**(Order of the Court was made by C.T.SELVAM,J.)**

The petitioner is the detenu viz., Sevanthu W/o. Ramar, aged about 50 years. The detenu has been detained by order in Detention Order No.07/2018, dated 11.02.2018, holding her to be a "Boot Legger", as contemplated under 2(b) of Tamil Nadu Act 14 of



1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard learned counsel for petitioner and learned Additional Public Prosecutor appearing for respondents. We have also perused the records produced by the Detaining Authority.

3. Though several grounds have been raised in the Habeas Corpus Petition, 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.

4. A perusal of the Grounds of Detention would reveal that the ground case came to be registered against the detenu in Cr.No.55 of 2018 for the offence u/s. 4(1)(aaa) r/w 4(1-4) of Tamil Nadu Prohibition Act, 1937 (Transport) and u/s 468, 471 and 476 I.P.C. Bail applications have been moved on behalf of the detenu in the ground case before Judicial Magistrate Court and Sessions Court and the same were dismissed and no further bail application has been moved on behalf of the detenu. Though the detaining authority has made reliance on a similar case in which the accused therein was granted bail by this Court, the facts involved in that case 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. Therefore, we are of the view that the finding of the Detaining Authority that there is likelihood of the detenu coming out on bail, is nothing but a clear non-application of mind and the Detaining Authority has not passed the order on merits; but passed, based on mere *ipse dixit*. Hence, on the above ground, the detention order is liable to be set aside.

5. In the result, the Detention Order, passed by the second respondent, in his proceedings in Detention Order No.07/2018, dated 11.02.2018, is quashed. The detenu, namely, Sevanthu, wife of Ramar, is ordered to be set at liberty forthwith, if her detention is not required in connection with any other case.

6. In the upshot, we allow the Habeas Corpus Petition.

Sd/-

Assistant Registrar(AE)

/True Copy/



To

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
2. The District Collector and District Magistrate,
Dindigul District,
Dindigul.
3. The Superintendent of Prison,
Special Prison for Women,
Madurai.
(In duplicate for communication to Detenu)
4. The joint Secretary to Government,
Public (Law & order),
Fort St. George, Chennai -9.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Sj

AE/SV MMS/SAR1/25.06.2018/3P/7C

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25.04.2018