

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2019

CORAM:

THE HONOURABLE Mr.JUSTICE C.T.SELVAM
and
THE HONOURABLE Mrs.JUSTICE S.RAMATHILAGAM

H.C.P. No.27 of 2019

Saranya

... Petitioner

-Vs-

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St George, Chennai 600 009.

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

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, call for the entire records, relating to the petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 20.12.2018 on the file of the second respondent herein made in proceedings Memo No.C3/D.O./77/2018, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband namely, Thimmakattai @ Arun, S/o.Azhagesan, aged 29 years before this Hon'ble High Court and set the petitioner's husband at liberty from detention, now the petitioner's husband detained at Central Prison, Cuddalore.

For Petitioner : Mr.C.Gopinath

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

ORDER

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

The petitioner is the wife of the detenu, namely, Thimmakattai @ Arun, Son of Azhagesan, aged 29 years, challenges

the impugned order of detention, dated 20.12.2018 in C3/D.O/77/2018 detaining her husband as "GOONDA", as contemplated under Section 2(f) 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 cases:-

S.No.	Police Station & Crime No.	Section of Law
1.	Cuddalore New Town Police Station Crime No.172/2014	147, 148, 294(b), 324 & 302 IPC
2.	Devanampattinam Police Station Crime No.93/2018	341, 294(b), 506(ii), 392, 397 IPC

The ground case has been registered against the detenu in Crime No.94/2018 on the file of the Devanampattinam Police Station for offences u/s. 341, 294(b), 506(ii), 392 and 397 IPC. The detention order has been passed by second respondent in C3/D.O./77/2018 on 20.12.2018.

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 2 adverse case have been registered against the detenu and a ground case was registered against him in Cr.No.94/2018 for the offences u/s. 341, 294(b), 506(ii), 392 and 397 IPC. Admittedly, the detenu has moved bail application in the ground case and the same is pending before the Court of District and Sessions Judge, Cuddalore in CrI.M.P.No.6834/2018. 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 C3/D.O./77/2018 dated 20.12.2018, passed by the second respondent is set aside. The detenu, namely, Thimmakattai @ Arun, Son of Azhagesan, aged about 29 years, is directed to be released forthwith unless his detention is required in connection with any other case.

kkn

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St George, Chennai 600 009.
- 2.The District Collector and District Magistrate,
Cuddalore District, Cuddalore.
- 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.

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Kak(06/03/2019)

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