

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2019

CORAM:

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

H.C.P. No.59 of 2019

Kannan

... Petitioner

-Vs-

- 1.Government of Tamil Nadu,
Rep. by its Secretary,
Home, Prohibition and Excise (XVI) Department,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Office of District Collector and District Magistrate,
Tiruvannamalai District, Tiruvannamalai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records in detention order in D.O.No.57/2018-C2 dated 27.12.2018 on the file of the second respondent and quash the same and direct the respondents herein to produce the body of my daughter in law Tmt.Ananthi, W/o. Tamilselvan, female aged about 51 years, the detenu now confined in Central Prison, Vellore before this Hon'ble Court and set her at liberty.

For Petitioner: Mr.C.Sakthivel

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

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

The petitioner is the father-in-law of the detenu, namely, Ananthi, Wife of Tamilselvan, aged 51 years, challenges the impugned order of detention, dated 27.12.2018 in D.O.No.57/2018-C2 detaining his daughter-in-law 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 case:-

S.No.	Police Station & Crime No.	Section of Law
1.	Tiruvannamalai Town Police Station Crime No.1059/2012	PCPNDT Act 1994, Amendment 2002 Chapter 9 Section 3 (1), 3(2)

The ground case has been registered against the detenu in Crime No.1689/2018 on the file of the Inspector of Police, Tiruvannamalai East Police Station for offences u/s. 23(1) PCPNTD Act, 1994 r/w 419, 420 IPC and 15(3) Indian Medical Council Act 1956 and 3(3) r/w 23(1) PCPNTD Act 1994. The detention order has been passed by second respondent in D.O.No.57/2018-C2 on 27.12.2018.

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 1 adverse case has been registered against the detenu and a ground case was registered against him in Cr.No.1689/2018 for the offences u/s.23(1) PCPNTD Act, 1994 r/w 419, 420 IPC and 15(3) Indian Medical Council Act 1956 and 3(3) r/w 23(1) PCPNTD Act 1994. Admittedly, the detenu has moved bail application in the ground case and the same is pending before the Hon'ble High Court, Chennai in CrI.M.P.No.30147/2018. 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 D.O.No.57/2018-C2 dated 27.12.2018, passed by the second respondent is set aside. The detenu, namely, Ananthi, wife of Tamilselvan, aged about 51 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

kkn

To:

- 1.The Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Office of District Collector and District Magistrate,
Tiruvannamalai District, Tiruvannamalai.
- 3.The Superintendent,
Special Prison for Women,
Vellore.
- 4.The Joint Secretary
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
- 5.The Public Prosecutor
High Court, Madras.

+1cc to Mr.G.Sakthivel, Advocate sr.7634

H.C.P.No.59 of 2018

srg 26/02/2019