

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2019

CORAM:

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

H.C.P.No.1839 of 2018

Rajasekar
S/o.Sundarraaj

... Petitioner

-Vs-

1.The Secretary to the Government,
Home Prohibition and Excise Dept.,
Secretariat,
Chennai - 600 009.

2.Commissioner of Police,
Greater Chennai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, call for the records in connection with the order of Detention passed by the second respondent dated 10.07.2018 in Memo No.502/BCDFGISSSV/2018 the detenu Rajasekar, male aged 22 years S/o.Sundarraaj, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before the Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.Senthil Vel

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 detenu, namely, Rajasekar, Son of Sundarraaj, age 22 years, challenges the impugned order of detention, dated 10.07.2018 in No.502/BCDFGISSSV/2018 detaining 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 case:-

S.No.	Police Station & Crime No.	Section of Law
1.	T1 Ambattur Police Station Crime No.3143/2016	394 r/w 34 IPC
2.	T-1 Ambattur Police Station Crime No.427/2017	451, 380 IPC r/w 34 IPC
3.	T-1 Ambattur Police Station Crime No.1528/2017	379 IPC r/w 34 IPC
4.	T-2 Ambattur Estate P.S. Crime No.213/2018	392 IPC
5.	T-2 Ambattur Estate P.S. Crime No.304/2018	392 IPC
6.	T-3 Korattur Police Station Crime No.473/2018	392 IPC
7.	T-1 Ambattur Police Station Crime No.1030/2018	394 IPC
8.	T-1 Ambattur Police Station Crime No.1097/2018	392 IPC
9.	T-3 Korattur P.S Crime No.602/2018	379 IPC
10	T-1 Ambattur Police Station Crime No.1187/2018	392 IPC
11	T-10 Thirumullaivoyal Police Station Crime No.669/2018	392 IPC

The ground case has been registered against the detenu in Crime No.574/2018 on the file of the Inspector of Police, T-2 Ambattur Estate Police Station for offences u/s 341, 294(b), 336, 427, 392, 397 and 506(ii) IPC. The detention order has been passed by second respondent in No.502/BCDFGISSSV/2018 on 10.07.2018.

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 eleven adverse cases have been registered against the detenu and a ground case was registered against him in Cr.No.574/2018 for the offences u/s. 341, 294(b), 336, 427, 392, 397 and 506(ii) IPC. Admittedly, the detenu has not moved any bail applications for T-2 Ambattur Estate Police Station Crime Nos.213/2018 and 304/2018, T-3 Korattur Police Station Crime Nos.473/2018 and 602/2018, T-1 Ambattur Police Station Crime Nos.1030/2018, 1097/2018 and 1187/2018, T-10 Thirumullaivoyal Police Station Crime No.669/2018. 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 No.502/BCDFGISSSV/2018 dated 10.07.2018, passed by the second respondent is set aside. The detenu, namely, Rajasekar, Son of Sundarraaj, aged about 22 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Deputy Registrar

//True Copy//

lpp/kmi
To

Sub Assistant Registrar

1. The Secretary to the Government,
Home Prohibition and Excise Dept.,
Secretariat,
Chennai - 600 009.
2. The Commissioner of Police, Greater Chennai.
3. The Public Prosecutor, High Court, Madras.
4. The Superintendent of Central Prison, Puzhal, Chennai.

H.C.P.No.1839 of 2018

SSM(14/02/2019)