

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.2239 of 2018

Venkatachalam
S/o.Ranganathan

... Petitioner

-VS-

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

2. The Secretary to the Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 9.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records in C3/D.O/51/2018 on the file of the first respondent, quash the detention order dated 16.08.2018 and direct the production of the detenu Gopi son of Venkatachalam presently detained at the Central Prison, Cuddalore, under the Tamil Nadu Act 14 of 1982 before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.A.M.Rahamath Ali

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

ORDER

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

The petitioner, who is the father of the detenu, namely, Gopi, Son of Venkatachalam, age 25 years, challenges the impugned order of detention, dated 16.08.2018 in C3/D.O./51/2018 detaining his son 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.	Cuddalore N.T.P.S Crime No.92/2018	Sec.341, 294(b), 324 & 307 IPC
2.	Neyveli Township P.S. Crime No.135/2018	Sec.147, 148, 364, 302 IPC and Sec.3(1) of Tamil Nadu Property (PDL) Act 1992.

The ground case has been registered against the detenu in Crime No.269/2018 on the file of the Inspector of Police, Cuddalore N.T.P.S, for offences u/s. 394 and 397 IPC. The detention order has been passed by second respondent in C3/D.O./51/2018 on 16.08.2018.

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 two adverse cases have been registered against the detenu and a ground case was registered against him in Cr.No.269/2018 for the offences u/s.394 and 397 IPC. Admittedly, the detenu has not moved any bail application in the ground case. 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./51/2018 dated 16.08.2018, passed by the second respondent is set aside. The detenu,

namely, Gopi, Son of Venkatachalam, aged about 25 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

lpp/kmi

To

- 1.The District Collector and District Magistrate,
Cuddalore District,
Cuddalore.
2. The Secretary to the Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 9.
3. The Public Prosecutor,
High Court, Madras.
- 4.The Superintendent of Central Prison,
Cuddalore.

H.C.P.No.2239 of 2018

nr 28/02/2019

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