

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2019

CORAM:

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

H.C.P. No.2261 of 2018

Umarani

... Petitioner

-Vs-

1.The Government of Tamil Nadu,
rep by its Secretary,
Home, Prohibition and Excise (XVI) Department,
Fort St.George, Chennai - 600 0009.

2.The Commissioner of Police,
Office of Commissioner of Police,
Greater Chennai,
Vepery, Chennai.

...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 Memo No.791/BCDFGISSSV/2018 dated 04.09.2018 on the file of the second respondent and quash the same and direct the respondents herein to produce the body of my son Anandhan aged about 38 years, the detenu now confined in Central Prison, Puzhal before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.K.Kannan

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

ORDER

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

Petitioner, who is the mother of the detenu, viz., Anandhan, Son of Ramalingam, aged 38 years, challenges the impugned order of detention, dated 04.09.2018 in No.791/BCDFGISSSV/2018 detaining her 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 cases:-

S.No.	Police Station & Crime No.	Section of Law
1.	V-3 J.J.Nagar Police Station Crime No.206/2018	379 IPC
2.	V-7 Nolambur Police Station Crime No.339/2018	392 IPC

The ground case has been registered against the detenu in Cr.No.452/2018 on the file of the Inspector of Police, V-7 Nolambur Police Station for offences u/s . 341, 294(b), 323, 392, 336 and 506(ii) IPC. The detention order has been passed by second respondent in No.791/BCDFGISSSV/2018 on 04.09.2018.

3. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have perused the counter affidavit as also 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. A perusal of the Grounds of Detention would reveal that 2 adverse cases have been registered against the detenu and a ground case came to be registered against him in Cr.No.452/2018 for the offences u/s.341, 294(b), 323, 392, 336 and 506(ii) IPC. Admittedly, the bail application filed by the detenu in the ground case Crime No.452/2018 as also in the second adverse Crime No.339/2018 case before the Court of Judicial Magistrate, Ambathur, Chennai, in CrI.M.P.Nos.4597/2018 and 4598/2018 and the same was dismissed on 28.08.2018. 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.791/BCDFGISSSV/2018, dated 04.09.2018, passed by the second respondent is set aside. The detenu, namely, Anandhan, Son of Ramalingam, aged 38 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,
Fort St.George, Chennai - 600 0009.
- 2.The Commissioner of Police,
Office of Commissioner of Police,
Greater Chennai,
Vepery, Chennai.
3. The Superintendent,
Central Prison,
Puzhal, Chennai.
4. The Joint Secretary,
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
5. The Public Prosecutor,
High Court, Madras.

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SRG 01/02/2019

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