

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.01.2019

CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM
AND
THE HONOURABLE Mrs. JUSTICE R.HEMALATHA

H.C.P.No.2275 of 2018

Saroja

... Petitioner

-Vs-

1.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-600 007.

2.The Additional Chief Secretary to Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.

... Respondents

Petition filed under Article 226 of Constitution of India, to issue a Writ of Habeas Corpus, call for the records in No.782/BCDFGISSSV/2018 on the file of the first respondent, quash the detention order 04.09.2018 and direct the production of the detenu Murugan son of Muthusamy presently detained at the Central prison, Puzhal, under the Tamil Nadu Act 14 of 1982 as a Goonda, before this Honourable Court and set him at liberty.

For Petitioner : Mr.S.Ganesh Kumar

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

ORDER

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

Petitioner, who is the wife of the detenu, viz., Murugan Son of Muthusamy, aged 59 years, challenges the impugned order of detention, dated 04.09.2018 in No.BCDFGISSSV/782/2018 detaining her husband 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.	S-13 Chrompet Police Station Crime No.476/2018	406, 420 IPC
2.	S-11, Tambaram Police Station Crime No.1078 of 2018	379 IPC
3.	S-11, Tambaram Police Station Crime No.1089 of 2018	379 IPC
4.	S-11, Tambaram Police Station Crime No.1135 of 2018	379 IPC

The ground case has been registered against the detenu in Cr.No.1144/2018 on the file of S-11 Tambaram Police Station, for offences u/s 341, 294(b), 336, 427, 506(ii), 392, 397 IPC. The detention order has been passed by first respondent in No. BCDFGISSSV/782/2018

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 an adverse case has been registered against the detenu and a ground case came to be registered against him in Cr.No.1144/2018 for the offences u/s.341, 294(b), 336, 427, 506(ii), 392, 397 IPC . Admittedly, the bail application filed by the detenu in the ground case before the learned Principal District and Sessions Judge, Chengalpattu, in M.P.No.3369/2018 and the same was dismissed. 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 passed by the first respondent is set aside. The detenu 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

vsi2

To:

- 1.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-600 007.
- 2.The Additional Chief Secretary,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
- 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.

+1cc to Mr.A.M.Rahamath Ali, Advocate, S.R.No.4197

rrs 11/02/2019

H.C.P.No.2275 of 2018