

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.2438 of 2018

S.Ranjitha

...

Petitioner

-Vs-

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

2.The Commissioner of Police,
Greater Chennai.

...

Respondents

Petition filed under Article 226 of 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 11.10.2018 in Memo No.941/BCDFGISSSV/2018, against the petitioner's husband Sabi Batsha, Male, aged 27 years, S/o.Ibrahim, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detainee before the Honourable Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

For Respondents: Mr.R.Prathap Kumar

Additional Public Prosecutor

O R D E R

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

Challenge is made to the order of detention passed by the second respondent vide Proceedings in 941/BCDFGISSSV/2018 dated 11.10.2018, whereby the detenu, by name, Sabi Batsha, Son of Ibrahim, aged about 27 years, was ordered to be detained under the provisions 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 of

1982) branding him as a "GOONDA".

2. The detenu has come to adverse notice in the following case:-

S.No.	Police Station & Crime No.	Sections of Law
1.	V-4, Rajamangalam Police Station Crime No.52/2018	379 IPC
2.	K-8, Arumbakkam Police Station Crime No.219/2018	379 IPC
3.	K-4, Anna Nagar Police Station Crime No.523/2018	392 IPC
4.	K-8, Arumbakkam Police Station Crime No.318/2018	379 IPC
5.	K-5 Peravallur Police Station Crime No.762/2018	341, 392 IPC
6.	V-3, J.J. Nagar Police Station Crime No.349/2018	392 IPC
7.	K-9, Thiru Vi. Ka. Nagar Police Station Crime No.1025/2018	392 IPC
8.	K-8, Arumbakkam Police Station Crime No.436/2018	392 IPC

The ground case has been registered against the detenu in Cr.No.449/2018 on the file of Inspector of Police, K-8 Arumbakkam Police Station, for offence u/s 341, 294(b), 323, 336, 397 and 506 (ii) IPC. The detention order has been passed by second respondent in 941/BCDFGISSSV/2018.

3. We have heard learned counsel for petitioner and the learned Additional Public Prosecutor appearing for respondents. We have also perused the records produced by the Detaining Authority.

4. Though many grounds have been raised in the 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. Further, the Grounds of Detention would reveal that one adverse case has been registered against the detenu and a ground case was registered against him in Cr.No.449/2018 for offence u/s 341, 294(b), 323, 336, 397 and 506 (ii) IPC. Admittedly, the detenu has not moved any bail application in the ground case as also in the adverse 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 941/BCDFGISSV/2018, dated 11.10.2018, passed by the second respondent is set aside. The detenu, namely, Sabi Batsha, son of Ibrahim, aged about 27 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

vsi2

To:

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The Commissioner of Police,
Greater 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.

GN(07/02/2019)

H.C.P.No.2438 of 2018