

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.2633 of 2018

V.Rajagopal

... Petitioner

-Vs-

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Secretariat,
Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai City Police,
Chennai - 600 008.

3.The Superintendent,
Central Prison,
Puzhal, Chennai.

... Respondents

Petition filed under Article 226 of Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records relating to the proceedings of the second respondent herein No.673/BCDFGISSSV/2018 dated 07.08.2018, passed by the second respondent and quash the same and produce the detainee Ranjithkumar, aged 23 years, son of V.Rajagopal, now detained in Central Prison, Puzhal further or to other orders.

For Petitioner : Mr.T.V.Vineeth Kumar

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, Ranjithkumar, Son of Rajagopal, age 23 years, challenges the impugned order of detention, dated 07.08.2018 in No.673/BCDFGISSSV/2018 detaining his soon as "GOONDA", as contemplated under Section 2(f) of the Tamil Nadu Prevention of dangerous activities of Boot leggers, 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	Cr.No. & Police Station	Offences
1.	Cr. No.1187 of 2017 M-1, Madhavaram Police Station	341, 294(b), 384, 506 (ii) IPC
2.	Cr. No.582 of 2018 V-4 Rajamangalam Police Station	341, 307, 506 (ii) IPC & 3(1) TNPPDL Act 1992
3.	Cr. No.584 of 2018 V-4 Rajamangalam Police Station	294(b), 341, 324, 506 (ii) IPC
4.	Cr. No.585 of 2018 V-4 Rajamangalam Police Station	341, 324, 506(ii) IPC
5.	Cr. No.586 of 2018 V-4 Rajamangalam Police Station	324, 506 (ii) IPC

The ground case has been registered against the detenu in Cr.No.587/2018 on the file of V-4, Rajamangalam Police Station for offences u/s 341, 294(b), 323, 397, 336, 427 and 506 (ii) IPC. The detention order has been passed by second respondent in No. 673/BCDFGISSSV/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 a ground case was registered against the detenu in Cr.No.587/2018 for the offences u/s.341, 294(b), 323, 397, 336, 427 and 506 (ii) IPC. Admittedly, the detenu has not moved any bail application in the ground case as also the adverse cases in Cr. Nos.582/2018, 584/2018, 585/2018 and 586 of 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.673/BCDFGISSSV/2018 dated 07.08.2018, passed by the second respondent is set aside. The detenu, namely, Ranjithkumar, Son of Rajagopal, aged about 23 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To:

- 1.The Secretary,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Secretariat,
Chennai - 600 009.
- 2.The Commissioner of Police,
Greater Chennai City Police,
Chennai - 600 008.
- 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.T.Vineethkumar, Advocate, S.R.No.3382

H.C.P.No.2633 of 2018

EV(CO)

rrs 23/01/2018



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