

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 31.01.2019

CORAM
THE HONOURABLE Mr.JUSTICE C.T.SELVAM
and
THE HONOURABLE Mrs.JUSTICE S.RAMATHILAGAM

H.C.P.No.2653 of 2018

M.Vignesh
S/o.Murugan

.. Petitioner

Vs.

1.The Secretary to Government,
Government of India,
Home Department,
North Block, New Delhi - 100 001.

2.State rep. by
Superintendent of Police (East),
Puducherry.

3.The District Magistrate,
Cum Authorised Officer,
Puducherry.

4.Chief Superintendent,
Central Prison,
Kalapet, Puducherry.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records relating to the detention order in Memo No.10/DM/RO/D2/PPASAA/2018, dt.16.10.2018 passed by the 3rd respondent under the Act 10 of 2010 and set aside the same and direct the respondent to produce the detenu Jana @ Parimelazhagar, S/o.Parithi @ Parithimarkalaingan, now confined in Central Prison, Kalapet, Puducherry before this Hon'ble Court and set the petitioner at liberty.

For Petitioner : Mr.S.Xavier Felix

For R1 : Mr.S.S.Pajanairaja, CGSC

For R2 to R4 : Mr.D.Bharatha Chakkaravarthy
Public Prosecutor (Puducherry)

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 third respondent vide Proceedings in No.10/DM/RO/D2/PPASAA/2018 dated 16.10.2018, whereby the detenu, by name, Jana @ Parimelazhagar, son of Parithi @ Parithimarkalaingan, aged about 36 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 "DANGEROUS PERSON AND GOONDA".

2. The ground case has been registered against the detenu in Cr.No.153/2018 on the file of Inspector of Police, Odiansalai Police Station, for offences u/s 294(b), 323, 324, 506(ii) IPC. The detention order has been passed by third respondent in No.10/DM/RO/D2/PPASAA/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 a ground case was registered against the detenu in Cr.No.153/2018 for offences u/s 294(b), 323, 324, 506(ii) IPC. Admittedly, the detenu has moved bail application in the ground case before the learned Chief Judicial Magistrate, Puducherry in CrI.M.P.No.3150/2018 and the same was granted and he is yet to offer sufficient sureties. 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.10/DM/RO/D2/PPASAA/2018 dated 16.10.2018, passed by the third respondent is set aside. The detenu, namely, Jana @ Parimelazhagar, son of Parithi @ Parithimarkalaingan, aged about 36 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

kmi/lpp

To

- 1.The Secretary to Government,
Government of India,
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- 4.Chief Superintendent,
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- 5.The Public Prosecutor (Puducherry),
High Court, Madras.

सत्यमेव जयते

H.C.P.No.2653 of 2018

rrs 06/03/2019

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