

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. 2663 of 2018

N.Nathamuni ... Petitioner

-Vs-

1. The Additional Chief Secretary to Government,
Home Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai, Vepery,
Chennai - 600 007. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the in connection with the order of detention passed by the second respondent dated 04.08.2018 in Memo No.657/BCDFGISSSV/2018 against the petitioner's brother Manikandan @ Modi Manikandan son of Nagendran, aged about 23 years, who is confined at Central prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Hon'ble Court and set him at Liberty.

For Petitioner : Mr.V. Paarthiban

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

WEB COPY
ORDER

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

The petitioner, who is the brother of the detenu, namely, Manikandan @ Modi Manikandan, son of Nagendran, aged 23 years, challenges the impugned order of detention, dated 04.08.2018 in 657/BCDFGISSSV/2018, detaining his brother 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 case:-

S.No.	Cr.No. & Police Station	Offences
1.	P-6 Kodungaiyur Police Station Crime No.650 of 2018	341, 294(b), 323, 397, 506 (ii) IPC
2.	P-3, Vyasarpadi Police Station, Crime No.522 of 2018	341, 294(b), 397, 506 (ii) IPC

The ground case has been registered against the detenu in Crime No.524/2018 on the file of P-3 Vyasarpadi Police Station for offences u/s341, 294(b), 336, 397, 506(ii) IPC and Section 3 of TNPPDL Act 1992. The detention order has been passed by Second respondent in 657/BCDFGISSSV/2018, dated 04.08.2018.

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 6 adverse cases have been registered against the detenu and a ground case was registered against him in Cr.No. 524/2018 for the offences u/s.341, 294(b), 336, 397, 506(ii) IPC and Section 3 of TNPPDL Act, 1992. Admittedly, the detenu has moved bail application in the ground case and the same is pending before the learned District Principal Sessions Judge, Chennai in Crl. M.P. No.12656 of 2018. Therefore, the probability of release of the petitioner 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 657/BCDFGISSSV/2018, dated 04.08.2018, passed by the second respondent is set aside. The detenu, namely, Manikandan @ Modi Manikandan son of Nagendiran, aged about 23 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 District Collector and
District Magistrate,
Vellore District,
Vellore -9.
- 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.

H.C.P.No.2663 of 2018

GN(07/02/2019)

WEB COPY