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.2645 of 2018

Rukumani ... Petitioner

-Vs-

1. State of Tamilnadu Rep.by
The Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.

2. The Commissioner of Police,
Greater Chennai,
Chennai. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents to produce the petitioner's son by name Lingeswaran @ Lingam @ Manikandan, Son of Venkadesan aged about 38 years before this Hon'ble Court now confined in Central Prison, Puzhal, Chennai set him at liberty and to call for the records pertaining to the order of detention passed in No.595/BCDFGISSSV/2018 dated 27.07.2018 passed by the second respondent and set aside the same.

For Petitioner : Mr.T.Muruganantham

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

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ORDER

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

The petitioner, who is the mother of the detenu, namely, Lingeswaran @ Lingam @ Manikandan, son of Venkatesan, aged 38 years, challenges the impugned order of detention, in 595/BCDFGISSSV/2018, dated 27.07.2018, detaining her son as "Goonda", as contemplated under Section 2(f) of the Tamil Nadu

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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.	T-2, Ambattur Estate Police Station Cr No.641 of 2017	341, 307 IPC @ 341,307, 326 r/w 120(b), 34 IPC
2.	T-1, Ambattur Police Station Cr. No.1096 of 2017	341, 294(b), 392, 506 (ii) IPC
3.	T-2, Ambattur Estate Police Station Cr. No.673 of 2017	3441, 392, 506 (ii) IPC

The ground case has been registered against the detenu in Crime No.613/2018 on the file of T-2, Ambattur Estate Police Station for offences u/s 341, 294(b), 336, 427, 392, 397 and 506 (ii) IPC. The detention order has been passed by Second respondent in 595/BCDFGISSSV/2018, dated 27.07.2018

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 3 adverse cases have been registered against the detenu and a ground case was registered against him in Cr.No.613/2018 for the offences u/s 341, 294(b), 336, 427, 392, 397 and 506 (ii) IPC. Admittedly, the detenu has moved bail application in the ground case and the same is pending before the learned District Principal Sessions Judge, Tiruvallur in Crl. M.P. No.3639 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

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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 595/BCDFGISSSV/2018, dated 27.07.2018, passed by the second respondent is set aside. The detenu, namely, Lingeswaran @ Lingam @ Manikandan aged about 38 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

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To:

The Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.

2. The Commissioner of Police,
Greater Chennai,
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.

H.C.P.No.2645 of 2018

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