

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE Mrs.JUSTICE S.RAMATHILAGAM

H.C.P. No.2704 of 2018

Sangeetha

... Petitioner

-Vs-

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

2.The District Collector and District Magistrate,
Kancheepuram District, Kancheepuram.

...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 husband by name, Madhan @ Madhankumar, Son of Palani, aged about 24 years before this Hon'ble Court now confined in Central Prison, Vellore set him at liberty and to call for the records pertaining to the order of detention passed in BCDFGISSSV No.89/2018 dated 11.11.2018 passed by the second respondent and set aside the same.

For Petitioner : Mr.K.Thenrajan

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

ORDER

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

Petitioner, who is the wife of the detenu, viz., Madhan @ Madhan Kumar, Son of Palani, aged 24 years, challenges the impugned order of detention, dated 11.11.2018 in BCDFGISSSV No.89/2018 detaining her husband as "GOONDA", as contemplated under Section 2(f) 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 14/1982).

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

S.No.	Police Station & Crime No.	Section of Law
1.	Siva Kanchi Police Station Crime No.401/2017	341, 294(b), 323, 384 & 506(ii) IPC
2.	Kanchi Taluk Police Station Crime No.889/2017	147, 148, 294(b), 324 & 307 IPC

The ground case has been registered against the detenu in Cr.No.775/2018 on the file of the Inspector of Police, Kanchi Taluk Police Station for offences u/s. 294(b), 307, 397, 506 (ii) IPC r/w 3(i) Tamil Nadu Property (Prevention of Damage & Loss) Act. The detention order has been passed by second respondent in BCDFGISSSV No.89/2018 on 11.11.2018.

3. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have perused the counter affidavit as also 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. A perusal of the Grounds of Detention would reveal that 2 adverse cases have been registered against the detenu and a ground case came to be registered against him in Cr.No.775/2018 for the offences u/s. 294(b), 307, 397, 506(ii) IPC r/w 3(i) Tamil Nadu Property (Prevention of Damage & Loss) Act. Admittedly, the bail application filed by the detenu in the ground case before the learned District Sessions Court - II, Kancheepuram, in CrI.M.P.No.3591/2018 and the same was dismissed on 02.11.2018. 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 BCDFGISSSV No.89/2018, dated 11.11.2018, passed by the second respondent is set aside. The detenu, namely, Madhan @ Madhankumar, Son of Palani, aged 24 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:

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Kancheepuram District, Kancheepuram.
3. The Superintendent,
Central Prison,
Vellore.
4. The Joint Secretary,
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
5. The Public Prosecutor,
High Court, Madras.

सत्यमेव जयते

H.C.P.No.2704 of 2018

GSP (25/02/2019)

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