

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2019

CORAM:

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

H.C.P.No.2708 of 2018

M.Poonkodi
W/o.Manikandan ... Petitioner

-Vs-

- 1.The Secretary to the Government,
Home, Prohibition & Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The District Collector and
District Magistrate, Vellore District,
Vellore - 9. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, call for the records in connection with the order of detention passed by the second respondent dated 09.11.2018 in C3/DO No.87/2018 against petitioner's husband Manikandan, S/o.Samudi, aged about 28 years, who is confined at Central Prison, Vellore 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

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ORDER

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

The petitioner, who is the wife of the detenu, namely, Manikandan, Son of Samudi, age 28 years, challenges the impugned order of detention, dated 09.11.2018 in C3/D.O.No.87/2018 detaining her husband as "BOOTLEGGERS", as contemplated under

Section 2(b) 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 case:-

S.No.	Police Station & Crime No.	Section of Law
1.	Vellore PEW Crime No.378/2018	U/s. 4(1)aaa, 4(1-A)ii TNP Act 1937 r/w 468, 471, 420 IPC and Section 6, 7 of Tamil Nadu Rectified Spirit rules 2000
2.	Vaniyambadi PEW Crime No.470/2018	U/s. 4(1)a, 4(1-A)ii TNP Act 1937

The ground case has been registered against the detenu in Crime No.482/2018 on the file of the Inspector of Police, Tirupathur Prohibition Enforcement Wing, for offences 4(1)aaa, 4(1-A)ii TNP Act 1937 r/w 468, 471, 420, 328 IPC and Section 6, 7 of Tamil Nadu Rectified Spirit Rules 2000. The detention order has been passed by second respondent in C3/D.O.No.87/2018 on 09.11.2018.

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 two adverse cases have been registered against the detenu and a ground case was registered against him in Cr.No.482/2018 for the offences u/s 4(1)aaa, 4(1-A)ii TNP Act 1937 r/w 468, 471, 420, 328 IPC and Section 6, 7 of Tamil Nadu Rectified Spirit Rules 2000. Admittedly, the detenu has moved bail application in the ground case and the same is pending before the Principal Sessions Judge, Vellore in C.M.P.No.5038/2018. 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 C3/D.O.No.87/2018 dated 09.11.2018, passed by the second respondent is set aside. The detenu, namely, Manikandan, Son of Samudi, aged about 28 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

lpp/kmi

To

- 1.The Secretary to the Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector and
District Magistrate, Vellore District,
Vellore - 9.
3. The Public Prosecutor,
High Court, Madras.
- 4.The Superintendent, Central Prison, Vellore.

सत्यमेव जयते

H.C.P.No.2708 of 2018

CSL/13.02.2019

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