

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2019

CORAM:

THE HONOURABLE Mr.JUSTICE C.T.SELVAM
and
THE HONOURABLE Mrs.JUSTICE R.HEMALATHA

H.C.P. No.2813 of 2018

R.Kavinila

... Petitioner

-Vs-

1. The Government of Tamilnadu,
Rep. by the Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St George, Chennai 600 009.
2. The District Magistrate and District Collector,
Tiruvallur District, Tiruvallur.
3. The Inspector of Police,
R.K.Pet PEW,
Thiruvallur District.
4. The Superintendent of Prisons,
Central Prison - II,
Puzhal, Chennai - 600 066.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, call for the records of the proceedings in BCDFGISSSV No.34/2018 dated 20.11.2018 on the file of the second respondent detaining Ravi @ Yamaha Ravi under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Goondas, Immoral Traffic Offenders and Slum-Grabbers, Act, 1982 and to quash the same as illegal and without jurisdiction, and to further produce the detenu Thiru.Ravi @ Yamaha Ravi before this Court, now confined at Central Prison, Puzhal and set him at liberty.

For Petitioner : Mr.Avinash Wadhwani

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

ORDER

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

The petitioner is the wife of the detenu, namely, Ravi @ Yamaha Ravi, Son of Ganesa Reddy, aged 34 years, challenges the impugned order of detention, dated 20.11.2018 in BCDFGISSSV No.34/2018 detaining her husband as "BOOTLEGGER", as contemplated under Section 2(b) 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 cases:-

S.No.	Police Station & Crime No.			Section of Law		
1.	R.K.Pet	PEW	Crime	4(1)(a) r/w 4(1-A)	Tamil Nadu	Prohibition Act (Transporting)
2.	R.K.Pet	PEW	Crime	4(1)(a) r/w 4(1-A)	Tamil Nadu	Prohibition Act (Transporting)

The ground case has been registered against the detenu in Crime No.651/2018 on the file of PEW R.K.Pet Unit for offences u/s. 4 (1)(aaa) r/w 4(1-A) Tamil Nadu Prohibition Act, 1937 (Transporting). The detention order has been passed by second respondent in BCDFGISSSV No.34/2018 on 20.11.2018.

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 2 adverse cases have been registered against the detenu and a ground case was registered against him in Cr.No.651/2018 for the offences u/s. 4(1)(aaa) r/w 4(1-A) Tamil Nadu Prohibition Act 1937 (Transporting). Admittedly, the detenu has moved bail application in the ground case and the same is pending before the Principal District and Sessions Court, Tiruvallur in

CrI.M.P.No. 5870/2018. 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.34/2018 dated 20.11.2018, passed by the second respondent is set aside. The detenu, namely, Ravi @ Yamaha Ravi, Son of Ganesa Reddy, aged about 34 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Deputy Registrar

//True Copy//

kkn

Sub Assistant Registrar

To:

- 1.The Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St George, Chennai 600 009.
- 2.The District Magistrate and District Collector,
Tiruvallur District, Tiruvallur.
- 3.The Inspector of Police,
R.K.Pet PEW,
Thiruvallur District.
- 4.The Superintendent of Prisons,
Central Prison - II,
Puzhal, Chennai - 600 066.
- 5.The Joint Secretary
Public (Law and order) Department,
Secretariat, Chennai - 600 009.
- 6.The Public Prosecutor
High Court, Madras.

H.C.P.No.2813 of 2018

SSM(13/02/2019).