

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2019

CORAM:

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

H.C.P.No.2863 of 2018

P.Sannasi

... Petitioner

-Vs-

1.The Secretary to Government (Home),
Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The State rep. by
The Commissioner of Police Greater Chennai,
Vepery,
Chennai District.

3.The Superintendent of Prison,
Central Prison,
Puzhal,
Chennai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records in pursuant to the proceedings of the 2nd respondent in Detention Order in Cr.M.P.No.586/BCDFG1SSSV/2018 dated 25.07.2018 quash the same and consequently direct the respondents to produce the detenu, namely Venkatesh, S/o.Sannasi, aged 42 years who is now detained in Central Prison, Puzhal, Chennai, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.T.Balachandran
For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor

ORDER

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

The petitioner, who is the father of the detenu, namely, Venkatesh, Son of Sannasi, age 42 years, challenges the

impugned order of detention, dated 25.07.2018 in No.586/BCDFGISSSV/2018 detaining his son 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 and Crime No.	Section of Law
1.	J-4 Kotturpuram Police Station Crime No.1211/2017	457, 380 IPC
2.	J-4 Kotturpuram Police Station Crime No.107/2018	457, 380 IPC
3.	E-4 Abiramapuram Police Station Crime No.314/2018	457, 380 IPC
4.	E-4 Abiramapuram Police Station Crime No.342/2018	457, 511 IPC @ 457, 380 IPC
5.	J-4 Kotturpuram Police Station Crime No.573/2018	457, 380 IPC

The ground case has been registered against the detenu in Crime No.639/2018 on the file of the Inspector of Police, J-4 Kotturpuram Police Station, for offences u/s. 341, 294(b), 336, 392, 397 and 506(ii) IPC. The detention order has been passed by second respondent in No.586/BCDFGISSSV/2018 on 25.07.2018.

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 five adverse cases have been registered against the detenu and a ground case was registered against him in Cr.No.639/2018 for the offences u/s.341, 294(b), 336, 392, 397 and 506(ii) IPC

<https://hcservices.admission.in> the detenu has moved bail application in the

ground case and the same is pending before the Principal Sessions Court, Chennai in C.M.P.No.11521/2018. 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 No.586/BCDEGISSSV/2018 dated 25.07.2018, passed by the second respondent is set aside. The detenu, namely, Venkatesh, Son of Sannasi, aged about 42 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

kmi/lpp

To

- 1.The Secretary to Government (Home),
Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
- 2.The Commissioner of Police Greater Chennai,
Vepery,
Chennai District. सत्यमेव जयते
- 3.The Superintendent of Prison,
Central Prison,
Puzhal,
Chennai.
4. The Public Prosecutor,
High Court, Madras.

H.C.P.No.2863 of 2018

A.SK(18/03/2019)