

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2019

CORAM:

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

H.C.P. No.2869 of 2018

N.Alavanthan

...Petitioner

-Vs-

1.The District Collector and
District Magistrate,Cuddalore,
Cuddalore District.

2.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Fort St.George,
Chennai - 600 009.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records pertaining to the order of the 1st respondent dated 17.11.2018 in C3/D.O./69/2018 detaining the detenu Saravanan, S/o. Balu @ Balakrishnan, aged 47 years, as BOOTLEGGER under Tamil Nadu Act 14/1982 and set aside the same and direct the respondents to produce the said detenu now detained in the Central Prison, Cuddalore before the Hon'ble Court and set him at liberty.

For Petitioner : Mr.R.Srinivas

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

ORDER

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

Petitioner, who is the father-in-law of the detenu, viz., Saravanan, Son of Balu @ Balakrishnan, aged 47 years, challenges the impugned order of detention, dated 17.11.2018 in C3/D.O./69/2018 detaining his son-in-law as "BOOTLEGGER", 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 cases:-

S.No.	Police Station & Crime No.	Section of Law
1.	Cuddalore N.T.P.S. Crime No.121/2018	Sec.4(1)(aaa), 4(1-A) Tamil Nadu Prohibition Act 1937
2.	Cuddalore N.T.P.S. Crime No.241/2018	Sec.4(1)(aaa), 4(1-A) Tamil Nadu Prohibition Act 1937
3.	Cuddalore N.T.P.S. Crime No.281/2018	Sec.4(1)(aaa), 4(1-A) Tamil Nadu Prohibition Act 1937
4.	Cuddalore N.T.P.S. Crime No.374/2018	Sec.4(1)(aa), 4(1-A) & 14A Tamil Nadu Prohibition Act 1937

The ground case has been registered against the detenu in Cr.No.435/2018 on the file of Cuddalore New Town Police Station for offences u/s.4(1)(aaa) & 4(1-A) Tamil Nadu Prohibition Act 1937. The detention order has been passed by first respondent in C3/D.O/69/2018 on 17.11.2018.

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 4 adverse cases have been registered against the detenu and a ground case came to be registered against him in Cr.No.435/2018 for the offences u/s. 4(1)(aaa) & 4(1-A) Tamil Nadu Prohibition Act 1937. Admittedly, the bail application filed by the detenu in the ground case before the Court of District Sessions Judge, Cuddalore, in CrI.M.P.No.5883/2018 and the same was dismissed on 08.11.2018. 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 C3/D.O./69/2018, dated 17.11.2018, passed by the first respondent is set aside. The detenu, namely, Saravanan, Son of Balu @ Balakrishnan, aged 47 years, is directed to be released forthwith unless his detention is required in connection with any other case.

kkn

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

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

+1cc to Mr.R.Srinivas, Advocate, S.R.No.835

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