

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.04.2019

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THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

HCP.No.2893 of 2018

Mrs.Shanthi

.. Petitioner

Versus

1.The State of Tamil Nadu

Rep. by its Secretary to Government
Prohibition and Excise Department, (Home)
Chennai-600 009.

2.The Commissioner of Police,
Coimbatore City,
Coimbatore.

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus to call for the records relating to the detenue's detention order passed by the 2nd respondent in C.No.116/G/IS/2018 dated 09.11.2018 and set aside the same and produce the deten D.Balamurugan @ Bala, son of Desigan, aged about 24 years, now detained in Central Prison, Coimbatore, before this Court and set him at liberty.

For Petitioner : Mr.P.Bharathi

For Respondents : Mr.C.Iyyappa Raj
Additional Public Prosecutor

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

The petitioner is the mother of the detenu, who, vide impugned Order of Detention dated 09.11.2018 passed by the 2nd respondent by invoking Section 2(f) of the Tamil Nadu Act 14 of 1982, in branding the detenu as "**Goonda**", came forward to file this Habeas Corpus petition.

2. A perusal of the grounds of detention would disclose among other things that the detenu came to adverse notice in the following cases:

<i>Sl.No.</i>	<i>Crime No.</i>	<i>Section of law</i>	<i>Date of occurrence</i>
1.	Sivagangai District, SIPCOT Police Station Cr.No.57/2016	147, 148, 294(b), 324, 449, 307, 506(ii), 212 r/w 34 IPC and Section 3 of TNPPDL Act 1992	11.03.2016
2.	Sivagangai District, SIPCOT Police Station Cr.No.58/2016	147, 148, 294(b), 506(ii), 212 r/w 34 IPC and Section 3 of TNPPDL Act 1992	11.03.2016

It is further stated in the ground of detention that one Tmt.S.Rajeswari, W/o.Shanmugasundaram, lodged a written statement to E-1 Singanalur Police Station, Coimbatore City stating that at about 08.30 hours on

11.08.2018, her son-in-law contacted her and informed about a dead

body with certain marks and later on, she became aware that the brother of the defacto complainant came to be murdered in a brutal manner. In this regard, the said Police Station has registered a case in Cr.No.910/2018 under Section 174 Cr.P.C and the Inspector of Police, Law and Order, E-1 Singanallur Police Station, Coimbatore City took up the investigation and during the course of investigation, the detenu was arrested on 09.09.2018. During such period, he voluntarily came forward to give a confession statement and on the basis of the admissible portion of the confession statement, some incriminating articles were seized. On further investigation, he revealed the involvement of detenu herein in the crime and the detenu was produced before the Court of Judicial Magistrate, No.III, Coimbatore on 09.09.2018 and was ordered to be remanded to judicial custody till 20.09.2018 and the remand period was extended till 15.11.2018.

3. The Detaining Authority namely, the 2nd respondent, on the basis of materials, formed a subjective satisfaction that the detenu, who has committed the crime, have already come to adverse notice in five cases and his acts are prejudicial to the maintenance of public order and accordingly, clamped the impugned orders of detention and challenging the legality of the same, the present Habeas Corpus Petition is filed.

4. The learned counsel appearing on behalf of the detenu has drawn attention of this Court to Paragraph No.10 of the grounds of detention and would submit that the detenu did not file any bail application in the ground case and in order to derive the subjective satisfaction that the detenu is likely to come out on bail and indulge in activities which are prejudicial to the public order, has relied upon the statement of the uncle of the detenu that steps are being taken to get bail for the detenu in the ground case and also placed reliance on a similar case registered at Coimbatore City, D-1 Ramanathapuram Police Station Crime NO.875/2017, wherein bail was granted to the accused in C.M.P.No.8564 of 2017 and would submit that it is not a similar case for the reason that the order granting bail in the said Crime Number was passed under Section 167(ii) Cr.P.C. and that apart, concerned accused therein have not been involved in any case, however, in the present case on hand, the detenu said to have involved himself in two adverse cases and that the period in which charge sheet would be filed, has also not expired and hence prays for interference.

5. *Per contra*, Mr.C.Iyyapparaj, learned Additional Public Prosecutor appearing for the State would submit that the 2nd respondent / Detaining Authority, on a thorough consideration of entire materials and after due and proper application of mind, has rightly clamped the order of detention and hence prays for dismissal of this petition.

6. This Court has considered the rival submissions and also perused the entire materials placed before it.

7. As rightly pointed out by the learned counsel appearing for the petitioner, the order granting bail in the similar case cannot be placed reliance upon for the reason that the concerned accused has been enlarged on statutory bail and that apart, they did not have any antecedents. However, in the present case on hand, statutory period for levying charge sheet is yet to expire and that apart, the detenu is also involved in two adverse cases and hence on the sole ground, the impugned order of detention warrants interference.

8. Accordingly, the Habeas Corpus Petition stands allowed and the Detention Order passed by the second respondent in

M.SATHYANARAYANAN, J.,

AND

M.NIRMAL KUMAR, J.,

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C.No.116/G/IS/2018 dated 09.11.2018 is set aside and the detenu namely, D.Balamurugan @ Bala, son of Desigan, aged about 24 years, who is now detained in Central Prison, Coimbatore, is set at liberty forthwith unless his detention / custody is required in connection with any other case / proceedings.

[M.S.N., J] [M.N.K., J]
16.04.2019

Internet : Yes/No
Index : Yes/No

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To

1.The Secretary to Government
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Chennai-600 009.

2.The Commissioner of Police,
Coimbatore City,
Coimbatore.

3.The Public Prosecutor
High Court, Madras.

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