



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: 17.11.2015

CORAM:  
THE HONOURABLE MR.JUSTICE **P.R.SHIVAKUMAR**  
**and**  
THE HONOURABLE MR.JUSTICE **V.S.RAVI**

**H.C.P(MD)No.1004 of 2015**

Devi .. Petitioner

Vs.

1.The Secretary to Government,  
Home Prohibition and Excise Department,  
Chennai 9.

2.The District Collector and the District Magistrate,  
Dindigul District, Dindigul.

3.The Inspector of Police,  
Dindigul Taluk Police Station,  
Dindigul District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, by calling for the entire records pertaining to the order of detention passed by the second respondent vide his proceedings in Detention Order No.48/05, dated 21.06.2015 and quash the same and consequently set the detenu Selvam @ Chandrasekar @ Pori Sekar, S/o.Sundaram, male aged 43 years, who is presently confined at Central Prison, Madurai, at liberty.

For petitioner : Mr.K.Mahendran

For respondents : Mr.A.Ramar

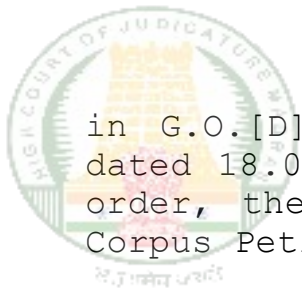
Additional Public Prosecutor

**O R D E R**

\*\*\*\*\*

[Order of the Court was made by **V.R.RAVI, J.**]

The petitioner is the wife of one S.Selvam @ Chandrasekar @ Pori Sekar. The detenu has been detained as per the order of the second respondent under sub-section (1) of Section 3 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 of 1982), read with the order issued by the Government



in G.O.[D].No.79, Home Prohibition and Excise (XVI) Department, dated 18.04.2015, by order dated 21.06.2015. Challenging the said order, the petitioner is now before this Court with this Habeas Corpus Petition.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents and we have also perused the records carefully.

3. The learned counsel for the petitioner straightaway drawn the attention of this Court to Paragraph No.5 of the grounds of the Detention Order, wherein the Detaining Authority has stated that the accused - S.Selvam @ Chandrasekar @ Pori Sekar has filed a Bail Application before the Madurai Bench of Madras High Court, Madurai, vide CrI.OP[MD].No.10990 of 2015 and the same is pending. However, the Detaining Authority has further stated that he infers that there is a real possibility of the detenu coming out on bail by filing Bail Application before the Higher Court for the case, for which bail was not granted. Based on the said details, the learned counsel for the petitioner submits that there is non-application of mind on the part of the Detaining Authority while passing the impugned order of detention.

4. In support of his contention, the learned counsel for the petitioner has relied on the Judgment of this Court delivered in the case of **Irusammal Vs. State of Tamil Nadu** reported in **2008 (3) MLJ [CrI] 1533**, wherein this Court has clearly observed that when a Bail Application filed by the detenu is pending before a Court, the observation made by the Detaining Authority in his order that there is a real possibility of the detenu coming out on bail by filing a Bail Application speaks of non-application of mind, vitiating the detention order.

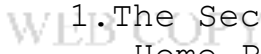
5. The above mentioned decision, in the considered view of this Court, is squarely applicable to the facts and circumstances of the present case. Hence, the impugned detention order is liable to be quashed. Accordingly, this Habeas Corpus Petition is allowed and the impugned proceedings in Detention Order No.48/05, dated 21.06.2015 is set aside and the detenu - S.Selvam @ Chandrasekar @ Pori Sekar, S/o.Sundaram, aged about 43 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar



To:

- +1cc to Mr.K.Mahendran,Advocate Sr NO.66358

ORDER MADE IN  
H.C.P (MD) No.1004 of 2015  
17.11.2015

rg.AAL-MPA/SAR-II 19.11.2015 3P/8C