



WEB COPY

1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P(MD)No.628 of 2015

Justin Thiraviyam

.. Petitioner

Vs.

1.The Secretary to Government,
Public (Law and Order-F) Department,
State of Tamilnadu,
Fort St.George, Secretariat,
Chennai-600 009.

2.The District Collector and District Magistrate,
Ramanathapuram,
Ramanathapuram District.

3.The Secretary to the Government of India,
Ministry of Home Affairs,
Department of Internal Security,
North Block,
New Delhi-110 001.

4. The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the entire records, connected with the detention order of the Respondent No.2 in Cr.M.P.No.05/NSA/2015, dated 17.04.2015 and quash the same and direct the respondents to produce the body or person of the detenu by name, Justin Thiraviyam, Son of Amaladass, aged about 36 years, now detained at Madurai Central Prison before this Honourable Court and set him at liberty.

For Petitioner : Mr.R.Alagumani
For RR 1,2 & 4 : Mr.S.Shanmuga Velayutham
State Public Prosecutor
assisted by Mr.T.Mohan
Additional Public Prosecutor

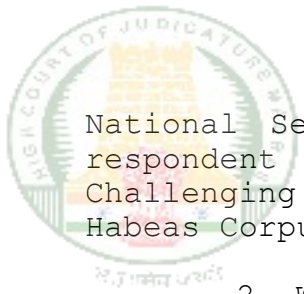
For R3 : Mr.K.R.Laxman
Central Government Standing Counsel

O R D E R

[Order of the Court was made by S.NAGAMUTHU,J]

<https://hcservices.ecourts.gov.in/hcservices/>

The petitioner is the detenu, Mr.Justin Thiraviyam, aged 36 years who has been detained under sub Section (2) of the Section 3 of the



National Security Act, 1980 (Central Act 65 of 1980), by the second respondent in his proceedings in Cr.M.P.05/NSA/2015, dated 17.04.2015. Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and learned Additional Public Prosecutor appearing for the State. We have also gone through the records carefully.

3. Though several grounds have been raised in this petition, the learned counsel for the petitioner would focus his arguments on the ground that the so called subjective satisfaction said to have been arrived at by the Detaining Authority that there was real possibility of the detenu would come out on bail is not based on any material. He would further point out that as mentioned in paragraph No.5 of the detention order, the detenu had not moved any application before any Court for bail.

4. The learned counsels appearing for the respondents are not in a position to dispute in the above fact.

5. We have considered the above submissions.

6. A perusal of the impugned order would go to show that in Crime No.24 of 2015, the detenu had not filed any application for bail before any Court. If that be so, it is strange as to how the Detaining Authority had come to the satisfaction that there was real possibility of the detenu would come out on bail. In our considered view, the said satisfaction is based on no material. Therefore the detention order is liable to be set aside.

7. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in Cr.M.P.No.05/NSA/2015, dated 17.04.2015, is quashed. The detenu, namely, Justin Thiraviyam, S/o. Amaladass, aged about 36 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(RTI)

/True Copy/

Sub Assistant Registrar

To

1.The Secretary to Government,
Public (Law and Order-F) Department,
State of Tamilnadu,
Fort St.George, Secretariat,
Chennai-600 009.

2.The District Collector and District Magistrate,
Ramanathapuram,
Ramanathapuram District.

<https://hcservices.ecourts.gov.in/hcservices/>
3. The Secretary to the Government of India,
Ministry of Home Affairs,
Department of Internal Security,



North Block,
New Delhi-1100001.

4. The Superintendent of Prison,
Madurai Central Prison,
Madurai District. (In duplicate for communicate to detenu)

5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
+1CC to Mr. R. Alagumani, Advocate, SR.No. 56220.

ORDER MADE IN
H.C.P (MD) No. 628 of 2015
22.09.2015

AM/28.09.2015/GSV.PM/SAR-I/3P/8C