



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.05.2016

CORAM:

**THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN
AND
THE HONOURABLE MR.JUSTICE B.GOKULDAS**

H.C.P.(MD)No.187 OF 2016

Thangapandi

... Petitioner

vs.

1. The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.
2. The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City.
3. The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus to call for the entire records connected with the detention order of the respondent No.2 in No.5/BCDFGISSSV/2016, dated 02.02.2016 and quash the same and direct the respondents to produce the body or person of the detenu by name Thangapandi, son of Ayyavoothevar @ Chathiriyan, aged about 25 years, now detained in Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.C.Ramesh
Additional Public Prosecutor

**O R D E R****[Order of the Court was made by M.V.MURALIDARAN, J]**

The petitioner Thangapandi, son of Ayyavoothevar @ Chathiriyan, aged about 25 years, has been detained as "Goonda", 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 of 1982), as per the order of the second respondent, dated 02.02.2016. Challenging the same, he has come up with this Habeas Corpus Petition.

2. The learned counsel for the petitioner would submit that the arrest of the detenu was intimated to the wife of the detenu through Cellphone by the detaining authority. He would further submit that intimation of arrest should be communicated to the relatives of the detenu through anyone of the legally recognized modes, which would ensure the right of the person arrested under preventive detention. If such intimation of arrest has not been made effectively, then it would confer a right upon the arrestee to impugn the arrest effected on him and thereby the detention order would get vitiated on that ground also. In support of his contention, he relied upon the decision in ***Shanmugam v. State of Tamil Nadu***, reported in **(2013) 4 MLJ (Cr1) 1**.

3. As rightly contended by the learned counsel for the petitioner, in the present case also, the arrest of the detenu has been communicated to his wife through Cellphone, but there is no proof to exhibit that the intimation of arrest was given to the family members of the detenu. In such circumstances, the impugned detention order is vitiated on the ground of deprivation of right guaranteed under Article 22(1) of the Constitution of India. In view of the above, we are inclined to set aside the impugned detention order.

4. In the result, the Habeas Corpus Petition is allowed and this Court sets aside the order of detention dated 02.02.2016, made in No.5/BCDFGISSSV/2016, by the second respondent and directs the release of the detenu by name Thangapandi, son of Ayyavoothevar @ Chathiriyan, aged about 25 years forthwith, if his custody/detention is not authorised in specific cases or by any other order of detention.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar



To

1. The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600 009.
2. The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City.
3. The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
4. The Joint Secretary to Government,
Public (Law & Order),
Fort St. George, Chennai-9.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO MR.R.ALAGUMANI, ADVOCATE IN SR NO. 26292

ARUL/KRK

TE/NGM-MP/SAR-III : 02/06/2016 : 3P/7C

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