



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.200 OF 2016

Wilson @ Winson

... Petitioner

vs.

1.The Secretary to Government

State of Tamil Nadu

Home, Prohibition and Excise Department

Fort St.George, Chennai-600 009

2.The District Collector and District Magistrate

Office of the District Collector and District Magistrate

Kanniyakumari District at Nagercoil

3.The Superintendent of Prison

Palayamkottai Central Prison

Tirunelveli 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 P.D.No.04/2016, dated 06.02.2016 and quash the same and direct the respondents to produce the body or person of the detenu by name Wilson @ Winson, son of Thankakon, aged about 39 years, now detained in Palayamkottai 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 Wilson @ Winson, son of Thankakon, aged about 39 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 06.02.2016. Challenging the same, he has come up with this Habeas Corpus Petition.

2. The learned counsel for the petitioner submitted that the detenu was arrested and produced on 12.01.2016 before the learned Judicial Magistrate, Padmanabhapuram and he was remanded till 25.01.2016 and thereafter his remand period was further extended till 08.02.2016 and 22.02.2016. However, the impugned detention order came to be passed only on 06.02.2016 during the remand period. The remand report also enclosed in the booklet in Page No.213. Therefore, it is not possible for the detaining authority to pass the detention order during the remand period. The detaining authority has passed the impugned detention order without application of mind.

3. We have heard the learned Additional Public Prosecutor and perused the materials available on record.

4. On perusal of the records, it is seen that the detenu was arrested and produced on 12.01.2016 before the learned Judicial Magistrate, Padmanabhapuram and he was remanded till 25.01.2016 and thereafter his remand period was further extended till 08.02.2016 and 22.02.2016. The detaining authority has passed the detention order only on 06.02.2016 that too when the detenu was under custody. There is no explanation from the detaining authority as to how they got order of extension from 08.02.2016, which shows the non-application of mind of the detaining authority in passing the detention order. Therefore, we are inclined to set aside the impugned detention order.

5. In the result, the Habeas Corpus Petition is allowed and this Court sets aside the order of detention dated 06.02.2016, made in P.D.No.04/2016, by the second respondent and directs the release of the detenu by name Wilson @ Winson, son of Thankakon, aged about 39 years forthwith, if his custody/detention is not authorised in specific cases or by any other order of detention.

Sd/-

Assistant Registrar(Records)

/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 District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Kanniyakumari District at Nagercoil.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

4.The Joint Secretary to Government,
Public(Law and Order), Fort St.George, Chennai-9

5.The Director General of Police, Chennai-4

6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.R.ALAGUMANI,Advocate Sr.No.26293

ARUL/KRK

AA/PEK/SAR-II/01.06.2016/3p-8c

H.C.P. (MD) No.200 OF 2016
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