



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2017

CORAM:

WEB COPY

**THE HONOURABLE MR. JUSTICE R. SUBBIAH
AND
THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA**

H.C.P. (MD) No. 1254 of 2017

Panneer @ Nondi Panneer

: Petitioner

Vs.

1. State of Tamil Nadu rep. by
The Principal Secretary to Government
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 9.
2. The District Collector and District Magistrate
O/o the District Collector and District Magistrate
Nagapattinam District, Nagapattinam.
3. The Superintendent,
Central Prison,
Tiruchirappalli.

: 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 in detention order passed in C.O.C.No.56/2017 dated 11.08.2017 on the file of the 2nd respondent herein and set aside the same as illegal and direct the respondents to produce the petitioner namely, Panneer @ Nondi Panneer S/o. Rasu, male aged 59 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.K.A.S.Prabhu

For Respondents : Mr.C.Ramesh

Additional Public Prosecutor

ORDER

[Order of the Court was made by R.SUBBIAH, J]

The petitioner is the detenu viz. Panneer @ Nondi Panneer, son of Rasu, aged about 59 years. The detenu has been detained, as per the order of the second respondent, dated 11.08.2017, under Section 2(b) of the Tamil Nadu Act 14 of 1982, branding him as "Bootlegger". Challenging the same, the petitioner has come up with this Habeas



Corpus Petition.

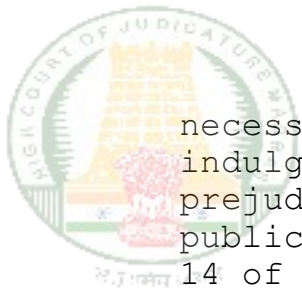
2. We have heard the learned senior counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records carefully.

WEB COPY

3. When the matter was taken up for consideration, the learned counsel for the petitioner submitted that while arriving at a subjective satisfaction, the Detaining Authority has referred only the ground case registered against the petitioner in Crime No.262/2017 and has not taken note of the adverse case registered in Crime No.261/2017, which would show that the order was passed mechanically without application of mind.

4. In paragraph No.5 of the detention order, it is stated as follows:

"5. I am aware that Thiru.Panneer @ Nondi Panneer, male aged 59/2017 S/o.Rasu was produced before the learned Judicial Magistrate Court No.II, Mayiladuthurai on 05.07.2017 and remanded in Sub - Jail, Mayiladuthurai as a remand prisoner on the same day itself. His remand period was expired on 19.07.2017 and further his remand period was extended upto 02.08.2017 and further his remand period was extended upto 16.08.2017. I am aware Thiru.Panneer @ Nondi Panneer, Male aged 59/2017, S/o.Rasu is in remand in connection with the case in Perambur Police Station Cr.No.262/2017. I am aware that he had moved a bail petition before the learned Judicial Magistrate that he had moved a bail petition before the learned Judicial Magistrate Court No.II, Mayiladuthurai on 06.07.2017. Further bail petition filed before the Sessions Judge, Nagapattinam was dismissed in Cr.M.P.No.2056/2017, dated 03.08.2017. further in his own first adverse case in Perambur Police Station Cr.No.426/2016, u/s.4(1)(aaa) TNP Act 1937 Thiru.Panneer @ Nondi Panneerm Male, aged 59/2017, S/o.Rasu was arrested and remanded on 04.12.2016 and later released on bail by the District and Sessions Court, Nagapattinam in Cr.M.P.No.3182/2016 dated 16.12.2016. Hence, I am satisfied that there is a real and imminent possibility of his coming out on bail by filing a bail application for the above case before the Higher Court. If he comes out on bail, he will indulge in such further activities, which will be prejudicial to the maintenance of public order and public health. Further, the recourse to normal criminal law would not have the desired effect of effectively preventing him from indulging in such activities which are prejudicial to the maintenance of public order and public health. On the materials placed before me, I am fully satisfied that the said Thiru.Panneer @ Nondi Panneer, Male aged 59/2017 S/o.Rasu is a Bootlegger and there is a compelling



necessity to detain him in order to prevent him from indulging in such further activities in future which are prejudicial to the maintenance of public order and public health under the provisions of the Tamil Nadu Act 14 of 1982."

WEB COPY

5. In support of his contentions, the learned counsel has also relied upon the Judgment in **Vasanthi v. State of Tamilnadu and another [(2013) 4 MLJ (Crl) 39]**.

6. We have heard the learned Additional Public Prosecutor appearing for the State and perused the records carefully.

7. In the decision cited supra, in Paragraph No.5, it has been held as follows:-

"5. On a careful scrutiny of the impugned order, it is seen that the detaining authority, taking into account the imminent possibility of the detenu being enlarged on bail in the ground case and the likelihood of the same is prejudicial to the public order and health, has passed the impugned detention order. It is pertinent to note here that the detaining authority, while passing order of detention, has to give consideration to all the material particulars. But to the contrary, in the instant case, the ground case registered in Crime No.166 of 2013 has alone taken into consideration, thereby omitting to mention the Crime no.165 of 2013, the 4th adverse case, by the authorities concerned, which really shows non application of mind and lethargic attitude on the part of detaining authority. Thus, for the reason stated hereinabove, the impugned detention order cannot be sustained and is vitiated. "

The said decision squarely applies to the facts of the present case also. In this case also, the Detaining Authority has not referred to the 4th adverse case, which would show that the order was passed mechanically without application of mind.

8. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in C.O.C.No.56/2017 dated 11.08.2017, is quashed. The detenu, namely Panneer @ Nondi Panneer, s/o.Rasu aged about 59 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 (W)

/True Copy/



To

1. The Principal Secretary to Government
Home, Prohibition and Excise Department,
Fort st. George,
Chennai - 9.
2. The District Collector and District Magistrate
O/o the District Collector and District Magistrate
Nagapattinam District, Nagapattinam.
3. The Superintendent,
Central Prison,
Tiruchirappalli.
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.

RR

TE/JC/SAR-4 : 26/12/2017 : 4P/6C

Order made in
H.C.P. (MD) No. 1254 of 2017
Dated: 11.12.2017