



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2017

CORAM:

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**THE HONOURABLE MR. JUSTICE M.M. SUNDRESH  
AND  
THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR**

H.C.P(MD)No.140 of 2017

Selvi

: Petitioner

**Vs.**

1. The Principal Secretary to Government  
Home, Prohibition and Excise Department,  
State of Tamilnadu  
Fort.St.George,  
Chennai - 600 009.

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

3. The Superintendent of Prison,  
Palayamkottai Central Prison,  
Tirunelveli 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 respondent No.2 in M.H.S.Confdl No.12/2017, dated 27.01.2017 and quash the same and direct the respondents to produce the detenu, by name, Palani, son of Selvaraj, aged about 35 years detained in Palayamkottai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Vinoth Bharathi

For Respondents : Mr.C.Ramesh

Additional Public Prosecutor.

**O R D E R**

**[Order of the Court was made by M.M.SUNDRESH , J.]**

The petitioner is the sister of the detenu - Palani, aged about 35 years. The detenu has been detained by the second respondent by his order in M.H.S.Confdl No.12/2017, dated 27.01.2017, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition on the ground of non



application of mind.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records produced by the Detaining Authority.

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3. The learned counsel for the petitioner submits that admittedly the detenu has not filed any bail application. Therefore, there is no possibility of himself coming out on bail. Secondly, it is submitted that the reliance placed on the order passed by this Court in CrI.O.P.(MD).No.11071 of 2015, dated 18.06.2015 cannot be accepted, since it has been granted by the High Court.

4. The learned Additional Public Prosecutor would submit that considering the fact that there is communal tension prevailing even now and taking into consideration of the detention order, which does indicate any non application of mind, no interference is required.

5. Admittedly, the detenu has not filed any bail application. Hence, there is no real possibility of the detenu coming out on bail. Secondly, the jurisdictional Sessions Court of Trial, has not granted any bail to any other accused similarly placed. Therefore, reliance made on the order passed by this Court for coming to the subject satisfaction cannot be accepted. Even otherwise, the said reliance cannot be factor for coming to the subject satisfaction as it is the Court of second instance.

6. In the result, the Detention Order, passed by the second respondent, in his proceedings in M.H.S.Confdl No.12/2017, dated 27.01.2017, is quashed. The detenu, namely, Palani, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

7. In the upshot, we allow the Habeas Corpus Petition.

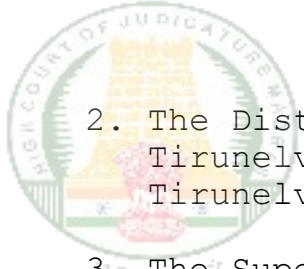
Sd/-  
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary to Government  
Home, Prohibition and Excise Department,  
State of Tamilnadu  
Fort.St.George,  
Chennai - 600 009.



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

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

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

JIKR

TE/JC/SAR-I : 18/07/2017 : 3P/5C

ORDER MADE IN  
H.C.P(MD) No.140 of 2017  
Dated:04.07.2017